

STOCK EXCHANGE PRACTICES

HEARINGS

BEFORE THE

COMMITTEE ON BANKING AND CURRENCY
UNITED STATES SENATE

SEVENTY-THIRD CONGRESS

SECOND SESSION

ON

S.Res. 84

(72d CONGRESS)

A RESOLUTION TO INVESTIGATE PRACTICES OF STOCK EXCHANGES WITH RESPECT TO THE BUYING AND SELLING AND THE BORROWING AND LENDING OF LISTED SECURITIES

AND

S.Res. 56 and S.Res. 97

(73d CONGRESS)

RESOLUTIONS TO INVESTIGATE THE MATTER OF BANKING OPERATIONS AND PRACTICES, TRANSACTIONS RELATING TO ANY SALE, EXCHANGE, PURCHASE, ACQUISITION, BORROWING, LENDING, FINANCING, ISSUING, DISTRIBUTING, OR OTHER DISPOSITION OF, OR DEALING IN, SECURITIES OR CREDIT BY ANY PERSON OR FIRM, PARTNERSHIP, COMPANY, ASSOCIATION, CORPORATION, OR OTHER ENTITY, WITH A VIEW TO RECOMMENDING NECESSARY LEGISLATION, UNDER THE TAXING POWER OR OTHER FEDERAL POWERS

PART 10

Guardian Detroit Union Group

JANUARY 5 TO JANUARY 23, 1934

Printed for the use of the Committee on Banking and Currency



UNITED STATES
GOVERNMENT PRINTING OFFICE
WASHINGTON : 1934

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U.S. Senate

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STOCK EXCHANGE PRACTICES

FRIDAY, JANUARY 5, 1934

UNITED STATES SENATE,

SUBCOMMITTEE OF THE COMMITTEE ON BANKING AND CURRENCY,

Washington, D.C.

The subcommittee met at 10 a.m., pursuant to adjournment on yesterday, in Room No. 301 of the Senate Office Building, Senator Duncan U. Fletcher presiding.

Present: Senators Fletcher (chairman), Adams (proxy for Costigan), Townsend, and Couzens.

Present also: Ferdinand Pecora, counsel to the committee, Julius Silver, and David Saperstein, associate counsel to the committee; and Frank J. Meehan, chief statistician to the committee.

The CHAIRMAN. The subcommittee will come to order. You may proceed, Mr. Pecora.

Mr. PECORA. Mr. Kanzler, will you resume the stand, please?

TESTIMONY OF ERNEST KANZLER, DETROIT, MICH.—Resumed

Mr. PECORA. Mr. Kanzler, referring again to the annual report, or the remarks, whatever you call them, that you made to the stockholders of the group at the last annual meeting of those stockholders, held on January 24 last, I want to call your attention to this statement, which I am reading from committee Exhibit No. 63, in evidence as of January 4, 1934:

During 1932, a difficult period for liquidation, securities carried on the books at \$1,712,821 were sold with a resultant net loss of only \$42,201, accomplishing this liquidation by the sale of the less desirable holdings and retaining only the highest grade securities.

On yesterday when you were on the stand I asked you if you knew to whom the securities referred to in this part of your report were sold, and you undertook to obtain the information so as to be in a position to give it to us today. Have you succeeded in doing so?

Mr. KANZLER. I called Dr. Badger, from whom that language and those facts were obtained. He advised me that those securities were sold in the market, not to the units. He said that he could almost state as a fact that none of them had been sold to any of the units. Then he said that he did recall some discussion as to whether or not some amount might not be sold to 1 or 2 units, some securities that had been written down and a reserve set up the previous year against them, and that they might have disposed of those to 1 or 2 units. He said the amount involved might have been \$10,000, but that, as his memory served him, it was not more than \$10,000 that was involved, and that they were then transferred at the then market value.

Mr. PECORA. Your statement to the stockholders was to the effect that securities carried on the books of the securities affiliate of the group at \$1,712,821 were sold with a resultant net loss of only \$42,201 during the year 1932, which you recognized was a difficult period for the liquidation of securities.

Mr. KANZLER. Yes, sir.

Mr. PECORA. You now say that those securities were sold with a resultant net loss of only \$42,201 in the open market during that difficult year of liquidation.

Mr. KANZLER. They had been written down to those levels so that they could be sold at that time.

Mr. PECORA. You mean that the figure of \$1,712,821 represents the marked-down valuation?

Mr. KANZLER. Having written the cost down on the books, yes, sir.

Mr. PECORA. Well, that does not appear from the statement you made here, does it?

Mr. KANZLER. That is what I——

Mr. PECORA (interposing). Do you think that is the meaning that could be placed upon the statement you made to the stockholders at the last annual meeting?

Mr. KANZLER. That is the meaning that I assumed Dr. Badger meant it to mean, and I think that would be the meaning I would take from reading that language.

Mr. PECORA. Now, when you told the stockholders that those securities had been liquidated at a resultant net loss of only \$42,201, was it your intent to tell the stockholders that that was the entire net loss resulting to the securities affiliate from this purchase and sale of liquidation of those securities?

Mr. KANZLER. No, sir. That would be the loss for that year's operations. If there had been reserves in preceding years, and written down, then they would be on the books of the corporation at those figures. Having been sold during the year the loss from those figures was \$42,201. That is what I assumed that statement to mean.

Senator COUZENS. Were they carried on the books of the corporation at the beginning of the year at the figures you have stated, or were they cut down during that current year?

Mr. KANZLER. I understand that to mean, Senator Couzens, that that was the figure to which they had been written down.

Mr. PECORA. How long before the liquidation had the mark-down been made?

Mr. KANZLER. I presume that that meant at the beginning of the year.

Mr. PECORA. Well, can't you tell us definitely?

Mr. KANZLER. No, sir; I don't know.

The CHAIRMAN. How much was the write-off?

Mr. KANZLER. Prior to that time?

The CHAIRMAN. Yes.

Mr. KANZLER. I have no idea.

Mr. PECORA. Do you think that telling the stockholders that over \$1,700,000 worth of securities carried on the books of the securities affiliate at that figure had been liquidated or sold with a resultant net loss of only \$42,201 gave the stockholders a true picture of what had actually happened in that respect?

Mr. KANZLER. I can say this, that the thing it means to me was what I think it would mean to any stockholder, and that is, that the securities had been written down to \$1,712,000 and that those securities had been sold during the year.

Mr. PECORA. Was there anything in this statement to the stockholders indicating that the securities had been written down to this figure of \$1,712,000?

Mr. KANZLER. Only that they were carried on the books at that figure.

Mr. PECORA. But they might have been carried on the books at the original purchase figure. There is nothing in your statement to the stockholders to inform them, or which would inform them, that that figure of \$1,712,000 was a marked-down figure, is there?

Mr. KANZLER. Well, I think it is usual that from year to year securities are marked down to certain figures, and then when sold the loss that occurs during that particular year is the loss between the price at which they were sold and the figure at which they then stood on the books.

Mr. PECORA. Now, Mr. Kanzler, you were a director of the Guardian Detroit Union Group, Inc., from the inception of that corporation, weren't you?

Mr. KANZLER. Yes, sir.

Mr. PECORA. And vice president from its inception, or one of the vice presidents?

Mr. KANZLER. I do not recall what the officer structure was. There were a lot of inactive officers named when it was first formed.

Mr. PECORA. Were you one of those inactive officers?

Mr. KANZLER. I was of the Guardian Detroit Group. I am not certain that I was of the Guardian Detroit Union Group.

Mr. PECORA. According to our examination of the corporate records you were a director and vice president, or one of the vice presidents, of the Guardian Detroit Union Group, Inc., from its inception, that is, during the year 1929, and you continued as such during the year 1930, and that in 1931 you became the chairman of the board.

Mr. KANZLER. That was in 1932, I think.

Mr. PECORA. The annual report for the year 1931 of the group, that is, the report of the stockholders, carries your name as chairman of the board.

Mr. KANZLER. That report carried the officers—well, the report, you see, was issued in 1932, after the election, and that indicates the officers for the year 1932.

Mr. PECORA. Then you did not become chairman of the board until the annual election in January of 1932?

Mr. KANZLER. That is correct.

Mr. PECORA. As a member of the board of directors, from the inception, I assume you were familiar with the various policies of operation that were initiated from time to time by the group.

Mr. KANZLER. In the way that a director would; yes, sir.

Mr. PECORA. Well, directors are supposed to have a fairly complete knowledge of the corporation of which they are directors, aren't they?

Mr. KANZLER. Yes, sir.

Mr. PECORA. And did you feel that you had that knowledge of the group?

Mr. KANZLER. Well, I devoted time to it, and was informed as to the affairs of the corporation in the normal way.

Mr. PECORA. Now, when did the members of the board of the group, including yourself, first come face to face with a realization that they were fighting a war against the depression?

Mr. KANZLER. I do not know of any particular event at which that happened. I think that things just got progressively worse from year to year and from week to week.

Mr. PECORA. When did they first become conscious of the fact that the war was on?

Mr. KANZLER. I do not believe I can mention any specific date, and I do not believe I can answer for all the directors. I think we all got our ideas as time went on.

Mr. PECORA. Well, you got your ideas rather firmly fixed as to that early in 1930, didn't you?

Mr. KANZLER. Well, in 1930 things were certainly getting worse, there is no question about that.

Mr. PECORA. And with the exception of a few months in the early part of 1930, they became steadily worse, didn't they?

Mr. KANZLER. They progressed and progressed; yes, sir.

Mr. PECORA. And the banking situation, not only in Detroit and throughout the State of Michigan but throughout the country, suffered from those conditions rather acutely, didn't they?

Mr. KANZLER. Yes, sir; they were suffering. There were hopes of an upturn at times, and then they seemed to get worse.

Mr. PECORA. Now, did you as one of the directors of the group help to fix the dividend policy of the group?

Mr. KANZLER. Well, I was one of those who voted from time to time for a dividend. Sometimes I was not present and sometimes I was.

Mr. PECORA. You were cognizant currently of the dividend policy of the group, weren't you?

Mr. KANZLER. Yes, sir. Well, now, I don't know that it was a policy, except that each dividend which was declared was decided upon the facts and circumstances surrounding that dividend.

Mr. PECORA. Well, the dividends declared were generally, or the first dividend declared in 1930 was at a rate around 16 percent on the par value of the group stock, wasn't it?

Mr. KANZLER. Well, I think the invested capital was something like, or at least the book value was something like \$60 or \$65 a share at that time, and I think the original rate was \$3.20.

Mr. PECORA. On a par value of the stock of \$20 a share?

Mr. KANZLER. Well, I think the par was \$20 a share; yes, sir.

Mr. PECORA. In order to enable the group to pay those dividends the group had to rely upon dividends it received from the various units of the group, principally the banking units, didn't it?

Mr. KANZLER. Yes, sir.

Mr. PECORA. As a matter of fact the units other than banking units were we might say liabilities to the group, were they not?

Mr. KANZLER. They became such with——

Mr. PECORA (interposing). Almost from the start?

Mr. KANZLER. With the depression; yes, sir.

Mr. PECORA. Now, recognizing, as I understand you did early in 1930, that you were engaged in this war against the depression which

acutely affected the banks, did you approve the policy of suggesting, and I use that term advisedly because that is the term that has been used here by Mr. Lord, to the boards of the various banking units of the group, that they pay dividends that were not justified by their current earnings?

Mr. KANZLER. Well, in the first place I do not believe it was a policy.

Mr. PECORA. Well, whether it was the policy or not it was done, wasn't it?

Mr. KANZLER. We of the group company were aware that dividends were being declared by individual units from time to time.

Mr. PECORA. Were you also aware that those dividends were being declared by those different units pursuant to the suggestions of the group addressed to those units?

Mr. KANZLER. Not entirely. We assumed that there would, naturally, be a contact between the officers of the group and the officers of the individual banks, and that they would work out what would be a reasonable program as to what they should contribute by way of dividends to the group.

Mr. PECORA. Was such a program specifically worked out as a result of conferences that were held between officers and directors of the group on the one hand, with officers and directors of the unit banks on the other hand?

Mr. KANZLER. I have no knowledge of what happened in 1930 or 1931.

Mr. PECORA. Why not?

Mr. KANZLER. Because that was an operation problem, and as directors we knew nothing of that.

Mr. PECORA. As directors you knew nothing about the facts and circumstances that would have to be taken into consideration in declaring dividends for the group?

Mr. KANZLER. The picture that we got, as I recall it, was that dividends were being received at such a rate from various units, and that as a result of such receipts and as a result of the earnings, or estimated earnings, as the case may be, of the combined units which would be turned into the group company in the form of dividends, that a dividend from the group company to the stockholders would or would not be recommended, and the officers usually recommended that to the directors.

Mr. PECORA. What officers recommended it to the directors?

Mr. KANZLER. It depended upon who was reporting on the estimated earnings, or what was expected by way of dividends. Sometimes it might be an executive vice president. Sometimes it might be the president.

Mr. PECORA. Do you refer to officers of unit banks, or officers of the group?

Mr. KANZLER. Of the group company.

Mr. PECORA. Officers of the group company, in other words, from time to time advised the board of directors of the group of the earnings of the unit banks of the group?

Mr. KANZLER. Yes, sir.

Mr. PECORA. And upon that information so received the directors of the group took action with regard to the declaration of dividends by the group?

Mr. KANZLER. Yes, sir.

Mr. PECORA. That was the procedure, was it?

Mr. KANZLER. Yes, sir.

Mr. PECORA. As part of the information laid before the directors of the group by its officers, respecting the earnings of the unit banks, did the board receive at those conferences, or on those occasions, statements of the condition of the unit banks, with respect to their ability to pay dividends, and the amount of dividends?

Mr. KANZLER. As the group corporation got more organized, and as that seemed to become a more important item, I would say in 1932 there were statements made on the condition of the individual banks to the directors, in more or less detail.

Mr. PECORA. Were not those statements made during the year 1930 and the year 1931?

Mr. KANZLER. I do not recall directors meetings where the conditions of the units were examined, as a director matter. I do not recall any such.

Mr. PECORA. Were you, from the outset, a member of the executive committee of the board of directors of the group?

Mr. KANZLER. Yes, sir.

Mr. PECORA. Was that kind of information brought to the attention of the executive committee of the board of the group during the years 1930 and 1931?

Mr. KANZLER. I think that at times members of the executive committee who were heads of units might get up and make remarks about the condition of their own units.

Mr. PECORA. Was there not a so-called examining group or staff organized by the group, whose particular function it was to inquire regularly into the condition of the various bank units of the group?

Mr. KANZLER. That was a force directed by Mr. Patterson.

Mr. PECORA. Exactly. That work was entrusted to Mr. Patterson, or entrusted to his direction.

Mr. KANZLER. And his organization.

Mr. PECORA. And his organization, primarily because of the fullness of experience which Mr. Patterson had as a national-bank examiner and a chief national-bank examiner before he became an officer of the group, was it not?

Mr. KANZLER. We all had confidence and believed in his ability.

Mr. PECORA. You believed in that ability because of the experience he had had as a national-bank examiner and chief national-bank examiner for a great many years, did you not?

Mr. KANZLER. Yes, sir.

Mr. PECORA. Did that staff, or that division of the group engaged upon that work under the direction of Mr. Patterson, make reports from time to time, at regular intervals, to either the board of the group or the executive committee of the board?

Mr. KANZLER. I recall some comments on some of the units. I do not recall the specific comments, but I do recall that Mr. Patterson did report from time to time on the condition of some of the units.

Mr. PECORA. I am going to be more specific. Were you aware of the fact that in 1930, as well as in 1931—but I am going to ask particularly about 1930—suggestions were made by the group, through its officers, to the executive officers of certain banking units of the group with respect to the declaration of dividends by the banking

units, and that upon receipt of those suggestions the officers of the banking units informed the officers of the group that the dividend which it was suggested by the group the bank should declare was not justified by the earnings?

Mr. KANZLER. I do not at the present time recall any such discussions, although they may have taken place.

Mr. PECORA. Such a discussion might have centered, if you recall it, around the declaration of a dividend requested or suggested by the group to be made by the Union Guardian Trust Co. for the second quarter of 1930. Do you recall anything about that?

Mr. KANZLER. I think that Mr. Stalker, or Mr. Blair may have made some remarks about the situation. I do not recall it specifically.

Mr. PECORA. What remarks did Mr. Stalker or Mr. Blair make about the situation around that time?

Mr. KANZLER. I do not specifically recall any remarks, but I do know that those gentlemen did comment on the progress—

Mr. PECORA. Progress, you say?

Mr. KANZLER. In some cases progress, yes, sir. They were cutting expenses, and they were in a period of depression, and decline, and they were trying to work up their organizations' efficiency, to get better results, and they would comment on that from time to time, and sometimes perhaps the comments might not have been so favorable.

Mr. PECORA. Did this letter ever come to your notice, as the vice president and a director of the group? I am referring to the letter marked in evidence before this Committee as Exhibit No. 7, of December 19, 1933. It consists of an intragroup memorandum addressed to Mr. Robert O. Lord by Mr. John N. Stalker, dated June 5, 1930, Mr. Stalker at that time being president of the Union Guardian Trust Co. [Reading:]

DEAR MR. LORD: We have your letter of the 4th instant with respect to the 5 percent quarterly dividend which you suggested that we pay this month. I presume a dividend of this amount is necessary to the fulfillment of your plan, and the officers are prepared to recommend it to the board. However, as you are aware, a dividend of this amount has not been earned. In addition to that, the trust company is setting up no reserves, and we feel that is not as it should be. There is no doubt in my mind that the company will suffer some losses.

That is not the entire letter, but I have read, I think, enough to indicate to you what the letter is, in order to recall it to your mind, if you had any knowledge of it at the time.

Mr. KANZLER. I think I recall that there was a general readjustment that was being worked out by the Trust Co., because of the fact that they were shifting some of the revenue earning departments from one company to another, and because there was a transitional stage and a merger, and a few other things going on, and that the officers did try to adjust themselves to a new situation.

Mr. PECORA. Did not the officers of the Trust Co. try to point out, in June 1930, to the officers of the group that the suggestion made by the group with regard to the dividend that should be declared by the Trust Co. was not a suggestion warranted by the facts?

Mr. KANZLER. I think that was their first idea, and I think there must have been some discussions whereby, in view of further expectations of some kind, there was a readjustment of the ideas that were

expressed there. I think that was probably a sound statement at the time.

MR. PECORA. Do you know that the readjustment was of a nature that led to the declaration of the dividend by the Trust Co. in pursuance of the original suggestion of the group, despite the fact that the officers of the Trust Co. pointed out that such dividend was not justified by the earnings?

MR. KANZLER. I would not have known it, Mr. Pecora, except that I have been here and heard the testimony, and have heard that it had been done.

MR. PECORA. Then, you were not aware of this correspondence that passed between the officers of the Trust Co. and the president of the group in June 1930?

MR. KANZLER. I do not recall whether I was or was not, but I have heard it now.

MR. PECORA. Is this the first time you have heard it, that is, since these hearings commenced?

MR. KANZLER. I do not recall that I heard it before, but I think there was some oral discussion in the meeting. I do not think there were any letters produced or anything of that nature.

MR. PECORA. Searching your own mind on the matter, Mr. Kanzler, do you think that if you had been informed in June 1930 of the facts pointed out by Mr. Stalker in his letter to Mr. Lord, a portion of which I have read to you, that you, as a director and officer of the group, would have taken the position that the trust company should, nevertheless, declare the dividend at the rate suggested by the group?

MR. KANZLER. I cannot answer that question, because I do not know what Mr. Stalker had in mind as to what he might do in the way of future revenue-producing steps. That was a large operation. The trust company had always been a very successful one. Nobody knew what the next few months were going to bring. He may have thought he was perfectly justified, for the moment, in doing this, and in adjusting himself to it.

MR. PECORA. I thought you were conscious, in June 1930 of the fact that you were fighting a war against the depression.

MR. KANZLER. I had not said that. I said before that we realized things were not as good in 1930 as they had been in 1929.

MR. PECORA. That is why I asked you at the outset this morning, Mr. Kanzler, when you first began to realize that the group was fighting a war against the depression.

MR. KANZLER. I tried to indicate that—

MR. PECORA. So far as I understand your answers in the earlier part of your examination this morning, you became aware of the existence of the war against the depression sometime early in 1930.

MR. KANZLER. You asked me yesterday where I got this expression "war against the depression." I do not think it was ever used in 1930. I think that came as the crescendo developed. I do not remember when we first felt that it was as serious as it finally turned out to be.

MR. PECORA. You were the head of a credit organization of great magnitude for many years, were you not?

MR. KANZLER. It was organized in 1928, yes, sir.

MR. PECORA. And as the head of that credit company, which was called the Universal Credit Corporation—

Mr. KANZLER. That is correct.

Mr. PECORA. Were you not kept cognizant of business conditions?

Mr. KANZLER. Yes, sir; and we kept abreast of them.

Mr. PECORA. You did not have to know that a depression was on from knowledge that came to you as a director of the group, did you?

Mr. KANZLER. We had a very fine year in 1930.

Mr. PECORA. Do you consider that an answer to my question?

Mr. KANZLER. Yes I do.

Mr. PECORA. Did I ask you what kind of a year the Credit Corporation had in 1930?

Mr. KANZLER. No; you did not, but you say I was kept cognizant of conditions.

Mr. PECORA. When did you first realize that the depression was on? Let us put it that way.

Mr. KANZLER. I do not know of any one date.

Mr. PECORA. I do not mean to hold you to a specific day of the year. What period? What time? What season?

Mr. KANZLER. I would say that it became increasingly impressed upon my mind that things were getting constantly worse, and I would not say at one particular time that I started calling it a depression. I knew in October 1929 that we were going through something, and that impression magnified itself from month to month.

Mr. PECORA. When did it first assume the proportions of a depression, as you understand the term?

Mr. KANZLER. I would say—I cannot give you an answer. I do not know what I would term a "depression", in that sense.

Mr. PECORA. What did you term a "depression" when you said yesterday you were fighting a war against the depression? What were you referring to then?

Mr. KANZLER. I was referring particularly to the latter half of 1932.

Mr. PECORA. Is that when the war commenced, that you were fighting—the latter half of 1932?

Mr. KANZLER. That is when it seemed to me to develop into a battle.

Mr. PECORA. It was practically a catastrophe then, was it not?

Mr. KANZLER. It was pretty bad.

Mr. PECORA. It did not come overnight, in the latter part of 1932?

Mr. KANZLER. No; it did not. I say it was a crescendo that developed.

Mr. PECORA. When did the development commence, in your judgment?

Mr. KANZLER. I think, as an event, it started in the fall of 1929.

Mr. PECORA. You were a director of the Union Guardian Trust Co. in the year 1930, were you not?

Mr. KANZLER. Yes, sir.

Mr. PECORA. As a director of the Union Guardian Trust Co., you were familiar with the circumstances under which the bank declared a dividend at the rate of 20 percent per annum for the second quarter of that year, were you not?

Mr. KANZLER. We had the recommendation of the officers at that time, and the facts which they presented at the meetings.

Mr. PECORA. What facts did they present at the meetings which prompted you to vote in favor of the declaration of that dividend, if you recall?

Mr. KANZLER. I am very sorry, but I do not recall the specific facts of a particular directors' meeting in 1930.

Mr. PECORA. Do you recall any meeting of the board of directors of the Union Guardian Trust Co. held during the year 1930, when the officers informed the directors that the group had suggested that the directors of the Trust Co. declare a dividend for the quarter at a rate which was not justified by the earnings? Do you recall any such event?

Mr. KANZLER. That does not stand out in my memory at all.

Mr. PECORA. If such a thing had happened, would it stand out in your memory, or would it have been forgotten by you by this time?

Mr. KANZLER. It depends upon the explanation which might have been made, along with such an event.

Mr. PECORA. Don't you recall any such event at all?

Mr. KANZLER. No, sir; I do not.

Mr. PECORA. As a director of the trust company, did you endeavor to keep yourself cognizant of the position of the bank with respect to its earnings, so that you might be guided, in the operation of your judgment on the question of declaration of dividends by the trust company?

Mr. KANZLER. Yes, sir.

Mr. PECORA. You did?

Mr. KANZLER. Yes, sir.

Mr. PECORA. Were you cognizant of the fact, in June 1930, not as an officer and director of the group, but as a director of the Union Guardian Trust Co., that the group had suggested to the trust company the declaration of a dividend for the second quarter at the rate of 20 percent per annum, which was in excess of the earnings of the trust company for the quarter?

Mr. KANZLER. I do not recall that I was.

Mr. PECORA. As a director of the trust company, when you voted to declare dividends, what facts did you base your judgment upon with regard to the declaration of the dividend?

Mr. KANZLER. I am speaking from my present judgment as to how I would have acted under the circumstances, because I have no memory of any such meeting, but I would have based my judgment upon what the officers had told us, what they were recommending, and what they would point out as to their future, and the occasions which might have been the cause for not having earned the dividend, if they had not earned it.

Mr. PECORA. Have you any recollection at all of what the officers of the trust company told the board with regard to the declaration of the dividend for the second quarter of 1930?

Mr. KANZLER. No, sir; I have no recollection.

Mr. PECORA. Is not your recollection refreshed by the portion of the letter addressed by Stalker to Lord, which I read to you a few minutes ago?

Mr. KANZLER. No, sir; only to the extent, as I say, that I have heard it before here in this testimony.

Mr. PECORA. Do you recall any time when the officers of the Trust Co. came before the board and asked the board to declare a dividend at a rate not justified by the earnings?

Mr. KANZLER. I do not recall whether it was a Trust Co. meeting or some other meeting, but I do recall that I have attended some meetings at which it was stated that earnings had not come up to the amount that it was considered desirable to declare out of undivided profits as a dividend, but just when those meetings were, or where, I do not at this moment recall.

Mr. PECORA. Were the dividends declared in those instances?

Mr. KANZLER. I am certain I attended meetings and voted for some dividends to be declared out of undivided profits that were not made out of current earnings.

Mr. PECORA. That was during the war against the depression?

Mr. KANZLER. Yes, sir.

Mr. PECORA. Did you think that was a sound banking policy?

Mr. KANZLER. In the light of the circumstances as we saw them then, I think it was the thing to have done.

Mr. PECORA. That term "in the light of the circumstances as we saw them then," is not a new one to this committee in these hearings. What do you mean by it? What were the circumstances you referred to?

Mr. KANZLER. Are you referring now to the Trust Co., or to a unit, or to the bank, or to the group?

Mr. PECORA. Let us take the Trust Co. situation, the Union Guardian Trust Co.

Mr. KANZLER. There were times when it was felt that the Group Co. should pay a dividend and, of course, it was known that the Group Co. had no earnings except as it received dividends from the units, and in order to assist the Group Co. in its position, in behalf of the Trust Co., the directors at times thought it wise to declare a dividend to the Group Co. so that the Group Co. could maintain a dividend, so that the market of stock, which in the public's mind was inherently and unfortunately associated with the caliber of the institutions represented by that stock, would—

Mr. PECORA. You say inherently and unfortunately associated in the public mind with the caliber of the institutions represented by the stock. Was not that inevitable, rather than unfortunate? We know it was unfortunate, but was it not inevitable that the public mind would so regard that association?

Mr. KANZLER. I think it was inevitable.

Mr. PECORA. Was not that foreseen by you as one of the founders of this group?

Mr. KANZLER. You say "as one of the founders of this group." I happened to be a member of the group, but in 1928 I was establishing a credit corporation with 33 branches throughout the country, and I was not thinking of the set-up of the group.

Mr. PECORA. Were you one of the founders of the group?

Mr. KANZLER. No; I would not say I was an active founder. I became a director in the Guardian Detroit Group when it was formed, but I would not say I was a founder of the group.

Mr. PECORA. Whom do you regard as the founders of the group?

Mr. KANZLER. I think the founders of the group were the active—

Mr. PECORA. Give us the names. We can identify them better by name.

Mr. KANZLER. I would say the active officers of the Guardian Group at the time it became Guardian Detroit Group.

Mr. PECORA. Who were they? Give us their names.

Mr. KANZLER. I do not know whether I know the exact names of all of them.

Mr. PECORA. Give us the names of as many as you can give us, of those whom you regard as the founders of the group.

Mr. KANZLER. Of course, I must say this, that the head of the bank at that time was Mr. Lord. I happened to be in Europe in 1929, when the corporate structure of the Guardian Detroit Bank was changed to Guardian Detroit Group. Why that was done, and how it was done, I have no real knowledge. That is where I think one of the group movements started, and just who were the movers in that I do not know.

Mr. PECORA. Could you not name for this committee the persons whom you regarded as the founders of this group?

Mr. KANZLER. I think it was a very broad group, and some had more to do with it than others. If you would take the directorates you would probably find the founders of the group—the directors of the bank.

Mr. PECORA. I was not around Detroit when this group was given birth. You were, probably. Can you not give us those names?

Mr. KANZLER. As I say, I was in Europe when the Guardian Detroit Bank changed to the Guardian Detroit Group, and the specific reasons, or the legal reasons why that was changed in that form, I do not know, except that—

Mr. PECORA. Changing the name of the group is just a mere detail?

Mr. KANZLER. I think not, Mr. Pecora.

Mr. PECORA. Do you think it is an important event?

Mr. KANZLER. Yes, because with it came a different charter, and the power to create more shares, and by that exchange of shares to take in institutions.

Mr. PECORA. You were not in Europe when the group was originally founded, were you?

Mr. KANZLER. Yes; when that was done I was in Europe.

Mr. PECORA. Were you named a director of the group at the very outset, while you were in Europe?

Mr. KANZLER. Yes.

Mr. PECORA. Did they name you as a director without your knowledge and consent, while you were in Europe?

Mr. KANZLER. They knew I would be very glad to go along with such a movement.

Mr. PECORA. You must have known something about the organization of the group before you went to Europe.

Mr. KANZLER. I do not think it was planned before I went to Europe.

Mr. PECORA. Did you learn about the founding, or the conception of this group for the first time while you were in Europe?

Mr. KANZLER. The conception of the group, to go back to the history of this thing—as a matter of fact, this discussion is recalling most of it to my mind now. It was the Guardian Detroit Bank, owing the Trust Company, and the Guardian Detroit Co. by means

of unified shares. Then, I think there came an idea of merging or acquiring the Highland Park State Bank, which was a bank doing business in Highland Park, a municipality entirely surrounded by and within the city of Detroit, and that idea crystallized, as I say, while I was out of the country, and in order to do that it became necessary to change the corporate structure of what formerly were unified shares, and that was done, and in that I would say was the kernel of the group idea.

Mr. PECORA. Who were the founders of this group, Mr. Kanzler, in your opinion?

Mr. KANZLER. I think everyone who was a director in the bank, and who voted for the merger with the Highland Park State Bank.

Mr. PECORA. Who were they? What were their names?

Mr. KANZLER. Have you a list of the directorate there? I do not recall all of them.

Mr. PECORA. Of what?

Mr. KANZLER. Of the Guardian Detroit Bank.

Mr. PECORA. For what year?

Mr. KANZLER. 1929. It may seem to you, Mr. Pecora, that I am quibbling on this point, but I really do not know how this came about, but I do know that this whole group of people were in the Guardian Detroit Bank, and ended up in the Guardian Detroit Group, which group had these powers.

Mr. PECORA. In 1929 you were one of the directors of the Guardian Detroit Bank?

Mr. KANZLER. Yes, sir.

Mr. PECORA. Were the founders scattered among that board?

Mr. KANZLER. I would say so.

Mr. PECORA. You were not only a director, but you were vice president of the Guardian Detroit Bank in the year 1929. were you not?

Mr. KANZLER. Inactive; yes, sir.

Mr. PECORA. Inactive?

Mr. KANZLER. Yes, sir. I had no salary and no specific duties.

Mr. PECORA. Mr. Lord was president of the Guardian Detroit Bank in 1929?

Mr. KANZLER. Yes, sir.

Mr. PECORA. Do you regard him as one of the founders of the group?

Mr. KANZLER. Yes, sir.

Mr. PECORA. Just go along the line and see if you cannot give us any other names, without prompting from me, just out of your own knowledge of the situation.

Mr. KANZLER. I would say Dr. Murphy; Mr. Bodman; I count myself an absent founder of the group. I was in it at the beginning, and ended up with it, so I am a founder of the group.

Mr. PECORA. Thank you for that information. I have been trying to get it for ten minutes. Who else?

Mr. KANZLER. May I have a list of those directors?

Mr. PECORA. Unfortunately the annual report of the group for the year 1929 does not give the names of the board of the Guardian Detroit Bank but does give quite a formidable list of officers.

Mr. KANZLER. I can tell from that list, I think. [Mr. Pecora handed a paper to the witness.]

Mr. KANZLER. James Walsh; John Grier—

Mr. PECORA. That is John C. Grier, Jr., is it not?

Mr. KANZLER. Yes, sir; John C. Grier, Jr.; Phelps Newberry—

Mr. PECORA. Would you say Mr. Edsel B. Ford was one of the founders?

Mr. KANZLER. Mr. Ford; Mr. Chapin—

Mr. PECORA. Roy Chapin?

Mr. KANZLER. Mr. Roy Chapin; Mr. Jerome Keane; Mr. Higbee; Mr. Howard Bonbright; Mr. Ralph Booth; Mr. Judson Bradway; Mr. Walter Briggs; Mr. Howard Coffin; Mr. Frank Couzens; Mr. George Fink; Mr. Sherwin Hill; Mr. James Inglis; Mr. Albert Kahn; Mr. Alvan Macauley; Mr. Ledyard Mitchell; Mr. Allan Shelden; Mr. Hiram Walker; Mr. Clarkson C. Wormer, Jr.; Mr. William Robert Wilson.

I have taken that list from the combined list, and I may have skipped some that were in that original group, but that approximately is, I think, the group of people.

Mr. PECORA. Now, Mr. Kanzler, what were the acts of participation, in your opinion, that constituted all of these men founders of the group?

Mr. KANZLER. In voting for the charter and approving this program and setting up the organization that then grew from that original idea.

Mr. PECORA. Whose was the original idea?

Mr. KANZLER. I don't know.

Mr. PECORA. Who first propounded it to you?

Mr. KANZLER. Well, as I say, when I came back to town I was informed of the idea of a merger between the Highland Park State Bank and the Guardian Group as it had then been, and I think I was advised of that by Mr. Lord.

The CHAIRMAN. How long were you away?

Mr. KANZLER. About seven weeks.

Mr. PECORA. You remarked before that in the public mind the group became identified inherently and unfortunately with the various banks that were units of the group. You recall that, don't you?

Mr. KANZLER. No; I said that the stock, the price of the stock inherently and unfortunately—

Mr. PECORA (interposing). Price of the stock of the group?

Mr. KANZLER. Yes.

Mr. PECORA. Inherently and unfortunately was associated in the public mind with the banks that were units of the group?

Mr. KANZLER. With the condition of the banks.

Mr. PECORA. With the condition of the banks that were units of the group?

Mr. KANZLER. Yes, sir.

Mr. PECORA. Was that a factor in determining or shaping the dividend paying policy of the group?

Mr. KANZLER. I think it had a decided effect on the judgment of the individuals. I can speak for myself. It did in my case.

Mr. PECORA. Now, how did your mind operate in that respect?

Mr. KANZLER. On the Detroit Stock Exchange the bank stocks were listed. If the price of the stock might be 80 or 90 or 20 or whatever it might have been at the time, and from 1 day to the next

dropped 10 points or 11 points or 5 points, depending on what the margin at that time was, that would immediately have a very unsettling effect on the public's mind as to the safety of their deposits in the various units and there would be withdrawals and hoarding would commence.

Mr. PECORA. Then the policy of the group in declaring its dividends was shaped partly, if not entirely, by a consideration of the effect upon the public mind with respect to the condition of the banks that were units of the group?

Mr. KANZLER. Yes, sir; I think that that had a decided influence in the mind of all of the individuals. I would say quite certainly that had a substantial effect upon the minds of the individuals declaring the dividends.

Mr. PECORA. Do you think that if that had not been the state of the public mind a different dividend policy would have been pursued by the group?

Mr. KANZLER. I have no question of it.

Mr. PECORA. From that is it fair to infer or to conclude that the directors of the group in declaring the dividends which they did declare from time to time fixed those dividends at a figure that was designed to bolster up public confidence in the banking units of the group?

Mr. KANZLER. No, sir; I would put it the other way: I would say that they declared the dividends in such a way that they would not destroy the institutions by reason of the runs that might be incited by a lack of confidence.

Mr. PECORA. Isn't that another way of saying that it was fixed in a fashion that was designed to keep up confidence of the public in the banking units?

Mr. KANZLER. I don't think it is the same thing.

The CHAIRMAN. Were dividends declared in order to keep up the prices of the stock, the quotations on the stock?

Mr. KANZLER. The price of the stock was one of the problems, and in spite of the fact that the dividend was declared in lessening amounts the stock acted rather irregularly and affected the institutions.

May I read you a letter from one of our units on that subject?

Senator COUZENS. Were there many transactions in the stock from day to day, Mr. Kanzler?

Mr. KANZLER. Yes, sir; there were a great number of them.

The CHAIRMAN. What stocks were listed?

Mr. KANZLER. All the bank stocks in Detroit were listed on the Detroit Exchange.

The CHAIRMAN. Was this group stock listed?

Mr. KANZLER. This group stock was listed, yes, Senator Fletcher.

The CHAIRMAN. Any of the units?

Mr. KANZLER. May I show you this letter?

Mr. PECORA. The Senator has asked also about the stocks of the unit banks.

Mr. KANZLER. No, sir; the units were not listed. They were all consolidated in one stock and that stock was listed on the exchange.

Senator COUZENS. Those two groups were the Guardian Detroit Union Group, Inc., and the other group that you mentioned?

Mr. KANZLER. That is correct; yes, sir.

Senator COUZENS. And you say there were a great many transactions taking place in those stocks every day?

Mr. KANZLER. Yes, sir.

Mr. PECORA. What is the letter you want to read?

Mr. KANZLER. This is a letter written by R. P. Shorts, president of the Second National Bank & Trust Co. of Saginaw, Mich.

Mr. PECORA. That was one of the group's unit banks?

Mr. KANZLER. That was one of our very fine unit banks; yes, sir. It is today. It is open today. This is a letter to Mr. James L. Walsh, executive vice president, Guardian Detroit Union Group, Inc., Detroit, Mich.

Senator COUZENS. What date?

Mr. KANZLER. That is dated December 21, 1931. [Reading:]

DEAR COLONEL: Have just wired you as follows: "Congratulations on new job and assurance of every assistance and cooperation", which I now confirm.

And then something more about the job.

Mr. PECORA. Suppose you read the whole thing.

Mr. KANZLER [reading]:

Your new job is going to give you broader opportunities than you have ever had before and certainly the group needs some good men in Detroit devoting his entire time to its interests.

My own opinion is that the most constructive move you could possibly make at this time for the benefit of group banking in general, and our two Michigan groups in particular, would be to make arrangements whereby both the Detroit Bankers and Guardian stock would be immediately taken off the market. The Detroit Bankers stock has been nose-diving for some little time now and they might be in just the proper attitude to approach on this subject. Only last week one of our depositors withdrew \$5,000 from our bank in cash and put it in a safety-deposit box, plainly stating that while he had every faith in our bank as a separate institution, he was worried about the declining market on Guardian stock—and would keep his money in cash until things got straightened around. A large percentage of the decrease in Group deposits can be traced directly to market quotations on its stock. If the stock of both Detroit groups were not listed and constantly flaunted before the public's eye—the same as applied 5 or 10 years ago—both our depositors and stockholders would be in a much happier frame of mind. I know all of the usual arguments presented against taking our stock off the market and I am confident that it would be the most constructive step the group could take at this time, and I would go so far as to do it alone—if the other Detroit crowd would not join.

Now that that is off my chest, I feel ready for the day's work.

Good luck to you!

Cordially yours,

R. P. SHORTS.

That was in '31.

Mr. PECORA. That was on December 21, 1931?

Mr. KANZLER. Yes, sir.

Mr. PECORA. That was written by R. Perry Shorts, who then was president of the Second National Bank & Trust Co. of Saginaw?

Mr. KANZLER. That is correct, sir.

Then on April 28, 1932, he wrote again. He wrote that time to Ernest Kanzler, chairman of the board, Guardian Detroit Union Group, Inc., Detroit, Mich.

DEAR ERNIE: Answering your memorandum of the 27th, it strikes me that the first thing to decide upon is a definite program in regard to taking our Guardian stock off the market at least 30 days prior to July 1, on which date dividends may be discontinued. If it is decided to take the stock off the market on or about June 1, a certain constructive, educational program for the benefit of our stockholders should be inaugurated. If on the other hand, it is decided not to take the stock off the market, then an entirely different program should be followed.

I am strongly in favor of taking the stock off the market whether the other Detroit group does so or not, not later than June 1 and if this program is adopted, I would suggest procedure along the following lines:

Prepare a strong letter to all stockholders, which would be signed personally by Mr. Lord as president. This letter would go out to stockholders on the same day that we would draw the stock from the market and would give our reasons for such action. This letter should make no reference to whether or not any dividends are going to be paid in July, but would be devoted solely to the reasons why the directors or executive committee decided to take the stock off the market.

This letter should recite the fact that through manipulation of brokers and speculators, our stock (as is the case with many other high-grade stocks) has been batted around from pillar to post like a football and driven down to a price which is wholly inconsistent with its true intrinsic value; that it is immaterial to brokers whether a stock is sold or bought through them as they make the same commission in either case; that brokers in their desperation for commissions during these strenuous times are telephoning our stockholders all over the State almost daily, advising them one way or the other about Guardian stock and inviting orders from them to either sell or buy; that as a result of this action many stockholders become greatly alarmed over the true value of their stock and are inclined to be influenced by every rumor that blows; that the directors know the stock to be worth far more than its present market quotation and are concerned about the heavy unnecessary losses being suffered by stockholders who are selling out on account of unjustifiable fear and untruthful rumors; and that the only way to protect the stockholders against such sacrifices is to remove the stock from the market entirely.

The letter should then explain that the directors fully appreciate the advantage to all stockholders of having some facility available through which they can sell or buy Guardian stock whenever they desire to do so. To meet this situation the Guardian will operate a stock trading department for the sole benefit of its stockholders desiring to buy or sell Guardian stock only. Parties desiring to sell or buy, may list their orders with the stock department and the manager will gladly render such stockholders every assistance and cooperation in their endeavors to sell or buy at a fair and reasonable price.

The letter should also mention the fact that the recent revelations to the United States Senate Committee investigating the New York Stock Exchange clearly show that on account of manipulation of brokers and speculators, the prices listed for stocks are often fictitious, unreliable and untruthful manifestations of their true value—and that bank stocks, representing the financial background of our country in which every man, woman and child is directly or indirectly interested, should not be subjected to such speculative attacks.

The letter should then recite that the whole matter had been given most serious consideration by the directors and large numbers of stockholders and that the great weight of opinion was that the interests of all of our stockholders would be best served by removing the Guardian stock from the market entirely and handling sales transactions through a private department of the bank for the sole use of the company's stockholders—no publication to be given as to sales or purchases and every sale to be considered a secret and confidential transaction between the buyer and the seller.

My idea would be to carefully prepare a letter along the above lines and send same out to stockholders on the same day we take the stock off the market. I am confident that practically all of the substantial stockholders (who are not influenced by brokers) will commend this action on behalf of the director. When July 1 comes and it is decided that no dividend will be paid, another good letter should be prepared and sent out to the stockholders, over Mr. Lord's signature, telling them the reasons for such action. So many large corporations, like United States Steel, and so forth, have already discontinued dividends that the damage from our decision to do so will, by July 1, be largely discounted.

With these two things accomplished and out of the way, the officers and directors will then be able to devote their sole time and attention to upbuilding the resources of the whole Guardian Group without having their minds continually diverted to crisis after crisis directly chargeable to stock market conditions.

I might add that in my judgment, the Detroit Group already know about our decision to discontinue dividends on July 1 and they will not, therefore, at this time permit us to drag them into a position where they will be pulling our coals out of the fire by taking their stock off the market at the same time we do. They

will, however, be glad to see us take such action and will very probably follow our lead within a period of 30 to 60 days, and then the whole atmosphere will be cleared on this stock proposition.

I am convinced that if we postpone taking our stock off the market until they will join us in such action, that they will string the matter along for many months and in the meantime, because of our paying no dividends on July 1, we will suffer far more than they will. Our problem is our own problem, and it is not the same as theirs, for the simple reason that they have not the July 1 nondividend action to face.

I am familiar with all of the arguments on the other side of the question and have weighed them carefully. The biggest argument is the question about the effect upon deposits. No one can foresee what such effect may be, but personally, I think it is being grossly exaggerated and I am not afraid to "face the music", but am in fact more fearful of the results that may follow if we do not promptly take our stock off the market at least 30 days prior to July 1.

If you gentlemen finally decide to adopt the above plan, I shall happily cooperate to the fullest extent in preparing the necessary forms of letters, etc., to be used in carrying the program into effect.

Cordially yours,

R. PERRY SHORTS.

Mr. PECORA. Mr. Kanzler, will you produce that letter that you have just read?

Mr. KANZLER. Yes.

Senator COUZENS. And before you go into that, Mr. Pecora, I would like to have the note that Mr. Kanzler wrote to Mr. Shorts that prompted that letter.

Mr. KANZLER. May I read that letter?

Mr. PECORA. Yes.

Mr. KANZLER. Would you like to follow it from this copy [handing document to Mr. Pecora]?

Mr. PECORA. Yes. I offer in evidence the letter that has just been read by the witness and which has just been produced by the witness.

The CHAIRMAN. Let it be admitted and put on the record.

(Photostat of letter on letterhead of Second National Bank & Trust Co. of Saginaw, dated Apr. 28, 1932, from R. Perry Shorts to Ernest Kanzler, was designated "Committee Exhibit No. 65, Jan. 5, 1934," and appears in full immediately above where read by Mr. Kanzler.)

Senator COUZENS. Now if you will read your letter.

Mr. KANZLER. Yes; I will read the first letter, a letter to Mr. R. Perry Shorts, president Second National Bank & Trust Co., Saginaw, on April 27, 1932, from Mr. Ernest Kanzler, chairman of the board, Guardian Detroit Union Group, Inc., Detroit. [Reading.]

DEAR PERRY: Please don't forget that you are going to write out a program for the handling of "roman numeral two."

II. Price of stock as affected by possible dividend action, which, in turn, might affect deposits of institutions.

1. Statement to stockholders in letter in advance of date.
2. Dividend action.
3. Possibility of withdrawing from exchange.
4. Publicity attending same.
5. Method of handling after-withdrawals.
6. Any other ideas you might have.

Very truly yours.

Mr. PECORA. That is a letter signed by you?

Mr. KANZLER. That was signed by me, sir.

Mr. PECORA. I offer in evidence the photostatic reproduction of that letter which has just been read by the witness.

The CHAIRMAN. Let it be admitted and entered on the record.

(Photostat of letter on letterhead of Guardian National Bank of Commerce of Detroit, dated Apr. 27, 1932, from Ernest Kanzler to R. Perry Shorts, was designated "Committee Exhibit No. 66, Jan. 5, 1934", and appears in full immediately above where read by Mr. Kanzler.)

The CHAIRMAN. What was done about that? Was that course pursued as recommended by you?

Mr. KANZLER. It was discussed, Senator Fletcher, but it was considered that it would be too dangerous to take it off the market, and I think this next letter illustrates the thoughts in the minds of the directors and the gentlemen who were discussing this problem. After I received Mr. Shorts' letter I sent it up to Dr. Fred Murphy, who was chairman of the board of the Guardian National Bank of Commerce—that was previous stationery there and he was using that at the time—and on May 5, 1932, he wrote me [reading]:

MR. ERNEST KANZLER,
Chairman of the Board, Guardian Detroit Union Group, Detroit

DEAR ERNIE: Commenting on the letter of Mr. Perry Shorts of April 28. I quite agree with Mr. Shorts that bank stocks should not be traded in on the open exchange. To withdraw the Guardian stock without having the Detroit bankers take a like action would, in my opinion, be dangerous. The fact that the American State withdrew its stock from the Exchange just before it went into the hands of the receiver is fresh in the memory of the Detroit public and I believe that such an action would materially affect deposits.

There can be no question but that brokers, as a class, are interested solely in the buying or selling of a stock in order that they may collect a commission. Undoubtedly their constant telephoning to stockholders has been very unsettling. The stock has, however, reached such a low level, a level out of line both as to book value as well as to ultimate earning possibilities, that I do not feel that a still further decline from this point would be followed by any serious withdrawals. The public has become hardened to these low price levels and since this level is comparable to that of many other sound stocks it would seem to me to be less difficult to explain such a shrinkage than to allay the fears of the public as to the causes leading to withdrawal. Whether the stock is listed or unlisted its price for purchase and sale will be determined ultimately by the statement of earnings and general conditions of the group.

If the Detroit bankers would withdraw their stock at the same time ours was taken off, I should favor the action, but to withdraw our stock without a similar action on their part would, in my opinion, be a more dangerous procedure than to have the stock remain and decline to any limits, however low, which might be determined by the buying public and the brokers' manipulations.

Sincerely,

FRED T. MURPHY.

Mr. PECORA. I offer in evidence the photostatic reproduction of the letter just read by the witness, which the witness has produced.

The CHAIRMAN. Let it be admitted and entered on the record.

(Letter on letterhead of Guardian Detroit Bank, dated May 5, 1932, from Fred T. Murphy to Ernest Kanzler, was thereupon designated "Committee Exhibit No. 67, Jan. 5, 1934", and appears in full immediately above where read by Mr. Kanzler.)

Mr. KANZLER. Mr. Pecora, I have another one I think is material right on that same point that I want to read.

Mr. PECORA. All right.

Mr. KANZLER. This is a letter on the stationery of the Capital National Bank of Lansing, dated May 23, 1932.

Mr. PECORA. That was one of the units of the group?

Mr. KANZLER. That was one of the units of the group, a unit which controlled at this time some 85 or 88 percent of the deposits of the

city of Lansing, all the others but one bank having failed and this bank having taken over one of those banks about to fail.

This is sent to Mr. Ernest Kanzler, chairman of the board, Guardian Detroit Union Group, Inc., Detroit, Mich. [reading:]

DEAR MR. KANZLER: At the suggestion of our executive committee, I am writing this letter.

For the past couple of weeks we have found that a great many rumors are circulating about town concerning our institution, and we find upon investigation that in nearly every case these rumors grow out of discussions of the price on Guardian stock. A group will get together and gossip about the price of the stock and someone remarks that there must be something wrong with Guardian or the stock would not act the way it does. Someone else will say, "Well, probably all the banks in the group are not in any too good shape," and the next fellow that tells it says he heard the Capital National Bank was not in any too good shape. The next person repeating the tale is likely to say that he heard on good authority that the Capital National Bank was in a bad way, and about the next time it is repeated it is to the effect that the Capital National will soon fold up.

There has not been anything in this gossip that has seriously affected us, but almost every day there are 1 or 2 or more withdrawals from savings accounts, chargeable to these rumors. Our people have felt that there should be some method created whereby the price of the stock could be maintained at a reasonable level. I personally think that it would be a great boost to all of our units if this could be done.

Very truly yours,

F. E. GORMAN, *President.*

Mr. PECORA. I offer in evidence photostatic reproduction of the letter just read by the witness, which has been produced by the witness.

The CHAIRMAN. Let it be admitted and entered on the record.

(Photostat of letter on letterhead of the Capital National Bank of Lansing, dated May 23, 1932, from F. E. Gorman, President, to Ernest Kanzler, was designated "Committee Exhibit No. 68, Jan. 5, 1934," and appears in full immediately above where read by Mr. Kanzler.)

Mr. PECORA. Any other letters on this subject you want to produce?

Mr. KANZLER. I think there is a whole file that could be collected, Mr. Pecora, but I just happened to take these to illustrate the point.

Mr. PECORA. What action was taken by the board of the group with regard to the suggestions that are discussed in these letters?

Mr. KANZLER. There were repeated meetings on the subject, with an almost equally divided opinion between directors present as to whether the stock should be withdrawn or not, and it was considered that Dr. Murphy's advice that in view of the fact of the withdrawal having immediately preceded the closing of the American State Bank and withdrawal from the exchange having immediately preceded the closing of the Fidelity Trust Co., the indications that might be in the minds of the public by such action would be too dangerous to attempt, and that therefore the stock was ridden through.

The CHAIRMAN. Was the stock ever withdrawn from the exchange?

Mr. KANZLER. It was not, Senator Fletcher. It was on the exchange the day the banks closed.

Mr. PECORA. As a matter of fact, during this time, say, in the early part of 1932, various unit banks of the group held as collateral large blocks of the group stock, didn't they?

Mr. KANZLER. There was a considerable amount of collateral held throughout the group.

Mr. PECORA. Do you know the amount?

Mr. KANZLER. I do not know the exact amount.

Mr. PECORA. Approximately, have you any idea?

Mr. KANZLER. The last examiner's report of the Guardian National Bank of Commerce, which is the only one I know about, as I recall, stated 111,000 shares, which was collateralized with other collateral for various loans.

Mr. PECORA. That is in that bank?

Mr. KANZLER. In that bank.

Mr. PECORA. That is, 111,000 shares in only one of these banks?

Mr. KANZLER. Yes, sir.

Mr. PECORA. How many thousands of shares of the group stock were held at about this time by all the unit banks that held such stock?

Mr. KANZLER. I haven't the figure, and I would not dare estimate, because I just would not know what that figure is.

Mr. PECORA. Wasn't it considered by the board of the group that in view of the fact that the various unit banks in the aggregate held several hundred thousand shares of the group stock as collateral against loans that the market price of the group stock should be maintained?

Mr. KANZLER. No, sir; I don't think that that was the consideration at all. I think the consideration was primarily on the question of deposits. Now, there were many of these shares held where they were held as collateral in loans that were thoroughly collateralized, so the fact that 111,000 shares were held as collateral is of some significance, but it does not tell the story.

Now, take my particular case: I had some bank stock up as collateral, but that loan was adequately collateralized by other shares and that loan has since been completely paid. So there were many similar circumstances to that that I am sure of.

There was also this fact, that as the depression continued—I don't know when it started, but as the depression continued—the officers, in their effort to further collateralize their loans, would naturally talk to the debtors and get as much collateral as they could, and in many cases the last thing that was offered was Guardian Bank stock, which was then added as additional collateral to a loan that had previously been thoroughly and adequately collateralized, and in that way there was quite an accumulation.

Mr. PECORA. Did you ever have any knowledge of the number of shares of Group stock pledged as collateral with all of the unit banks by officers and directors of the Group as well as officers and directors of the unit banks?

Mr. KANZLER. I think that toward the end of '32 there were some statistics gathered on that, but I don't recall the figures or know anything very definite about it.

Mr. PECORA. Was the amount substantial?

Mr. KANZLER. Yes, sir; it was.

Mr. PECORA. You have mentioned here that the stock of the Group was traded in very actively on the Detroit Exchange.

Mr. KANZLER. Yes, sir.

Mr. PECORA. Did you trade in that stock?

Mr. KANZLER. No, sir; I didn't trade in it.

Mr. PECORA. Were you a participant in any syndicate or pool accounts that traded in the stock of the group at any time?

Mr. KANZLER. Yes, sir. In October 1931—October 1930—
Mr. PECORA. In October 1930?

Mr. KANZLER. In October 1930 this same condition as is expressed in these letters existed.

Mr. PECORA. In October 1930?

Mr. KANZLER. Yes, sir. At a time when the price of the stock was then around 75 or 80 or somewhere around there.

Senator COUZENS. From what point had it dropped to that?

Mr. KANZLER. In August 1929, I think, it had sold in quantities around 250 to 300.

Senator COUZENS. And it had dropped from that time up until October 1930 to 75 or 80?

Mr. KANZLER. Yes, and that was having a very disquieting effect upon the stockholders.

Mr. PECORA. Hadn't the quotation gone as high as 350?

Mr. KANZLER. I think there were a few shares traded in at that price, but I am not aware of just what that was.

Mr. PECORA. Go ahead and tell us about the pool account.

Mr. KANZLER. I would not call it a pool.

Mr. PECORA. What would you call it?

Mr. KANZLER. I would call it a purchase group.

Mr. PECORA. Well, we will adopt your term. Tell us about the formation of this purchase group.

Mr. KANZLER. In October 1930 when the price of the stock was beginning to be an unsettling factor, directors and officers felt it was such an important item that they should not let the unwarranted values in the market affect the institutions, and so they agreed among themselves—there were 110 or 112 directors in that list that agreed—that they would purchase the stock at a figure not to exceed 60 and hold it for a year.

Mr. PECORA. Was any limitation placed in that purchase agreement on the amount of stock that the group would buy, that the participants in this purchasing agreement would buy?

Mr. KANZLER. It was agreed in the agreement that the agreement would not be binding unless people agreeing to buy at least 60,000 shares would sign in the general purpose, because otherwise it was thought that it would not be enough to stem the tide.

Mr. PECORA. Was such an agreement effected?

Mr. KANZLER. Such an agreement was effected.

Mr. PECORA. Who managed the transactions in behalf of that purchase agreement?

Mr. KANZLER. Mr. Charles B. Warren was on the committee and drew up the agreement. Mr. Warren, as you will doubtless remember, was formerly Ambassador to Japan. And with him on the committee were Mr. James Inglis, who is now chairman of the board of the National Bank of Detroit; Mr. Roy Chapin, formerly Secretary of Commerce; Mr. Hal Smith, a Detroit attorney, and myself. We acted as trustees for this group, and then in order to handle the mechanics of purchases the Guardian Detroit Co. was made agent on behalf of this group of directors, who all signed these individual and several agreements.

Mr. PECORA. Have you a copy of that purchase agreement?

Mr. KANZLER. I think I may have one here, Mr. Pecora. [And the witness begins looking through his papers.]

SENATOR COUZENS. While you are looking that up let me ask: Did all those about 110 directors sign that agreement?

MR. KANZLER. Yes, sir.

SENATOR COUZENS. You say all of them signed it?

MR. KANZLER. Yes, sir. [After having looked through his papers.] No, Mr. Pecora, I haven't a copy of that agreement here.

MR. PECORA. Can you get a copy of it for us?

MR. KANZLER. I can get one.

MR. PECORA. Tell us the substance of it.

MR. KANZLER. It simply said that believing it advisable to purchase in the market a substantial amount of shares at a price not to exceed 60, the undersigned hereby severally agree, in consideration of the promises of each other, to purchase the amounts set opposite their names, at not to exceed 60; and that they appointed the Guardian Detroit Co. as agent to purchase this stock for them; and that they will not sell the stock for a year; and that they will honor sight draft attached to stock when received.

THE CHAIRMAN. Did you purchase the 60,000 shares?

MR. KANZLER. What was that, Senator Fletcher?

THE CHAIRMAN. The agreement was to purchase 60,000 shares, I believe?

MR. KANZLER. That is, it was not to become binding on any of the individuals unless there were enough individuals in the group who would agree to purchase a total of 60,000 shares.

MR. PECORA. And the agreement became effective, did it?

MR. KANZLER. Yes, sir.

MR. PECORA. What transactions in the stock of the group were had in furtherance of the purposes of that agreement?

MR. KANZLER. Well, as a result of that agreement there were purchased from time to time substantial blocks of stock, which were then drafted out to the individuals who purchased them and who took up the drafts.

MR. PECORA. Did they all take up their drafts?

MR. KANZLER. As I recall it they all took up their drafts. I think over a period of a year and a half about a total of \$3,200,000 worth of stock was purchased. First of all, that syndicate ran for 6 months, or that purchase agreement ran for 6 months, and then that purchase group was renewed for another 6 months, except that the maximum price as set out was \$45 as I recall it, and the amount for which they had to sign to make it operative was made 20,000 shares.

MR. PECORA. That is, 20,000 shares in addition to the original 60,000 shares.

MR. KANZLER. Well, the original 60,000 shares had not been purchased at the time that agreement expired. It expired by its own terms in 6 months.

SENATOR COUZENS. When that first agreement expired how many shares of stock had been purchased?

MR. PECORA. That is, upon the expiration of the first 6 months' period, Senator Couzens?

SENATOR COUZENS. Yes.

MR. KANZLER. I would suggest it was about 35,000 shares.

SENATOR COUZENS. About 35,000 shares had been purchased?

MR. KANZLER. Yes, sir; I think so.

Mr. PECORA. How many shares were purchased under the terms of the renewal agreement?

Mr. KANZLER. I haven't the exact information but would say about 18,000 or 20,000 shares.

Mr. PECORA. What became of that stock purchased by that group?

Mr. KANZLER. I cannot tell you, sir. I know that the individuals paid for it.

Mr. PECORA. Did any of the individuals sell out before the expiration of the time at which they agreed to hold the stock?

Mr. KANZLER. I don't know.

Senator COUZENS. Wasn't there a selling group, too, at one time?

Mr. KANZLER. I do not know of any selling group.

Senator COUZENS. You do not know of any selling group?

Mr. KANZLER. No, sir.

Senator COUZENS. Did you ever hear that there was one?

Mr. KANZLER. No, sir.

Mr. PECORA. In the operations of this purchase group, did they also sell?

Mr. KANZLER. No, sir.

Mr. PECORA. I mean during the period when they were buying the stock.

Mr. KANZLER. No, sir.

Mr. PECORA. It was an out and out purchase group, was it?

Mr. KANZLER. Yes, sir.

Mr. PECORA. With no selling transactions as a part of its operations?

Mr. KANZLER. No, sir.

Mr. PECORA. Now, were you a participant in any other group trading in, buying, or selling the stock of the group?

Mr. KANZLER. No, sir. In 1932 I sold a few shares. I had an interest in about 40,000 shares, or 34,000 shares, at a cost to me of about 1½ million dollars. I sold about \$20,000 worth of that; I sold that and bought it back when I found that the market was about to establish a new low, as I did not want to see a new low because of the effect it would have on our stock. So I purchased it in December of 1932, purchased that same amount of stock back, and I held more when the bank closed than at any other time.

Mr. PECORA. Now, Mr. Lord in his testimony before this committee on yesterday gave the following answers—

The CHAIRMAN (interposing). Let me get that matter straight. Mr. Kanzler, you had how much invested in the stock?

Mr. KANZLER. My investment when the banks closed, standing in my name, was \$1,200,000, at my cost. And a corporation in which I only had a third interest had an amount of about \$600,000 at its cost. That corporation bought the stock and never sold it.

Senator COUZENS. What was the name of that corporation?

Mr. KANZLER. The K.F.H. Corporation.

Senator COUZENS. Is that corporation still in existence?

Mr. KANZLER. No, sir.

Senator COUZENS. Where are the shares that that corporation had?

Mr. KANZLER. I have them.

Senator COUZENS. Who were the owners of the other two thirds interest?

Mr. KANZLER. Mr. George Fink and Mr. Carl Higbee.

Mr. PECORA. They were both directors of the Group, weren't they?

Mr. KANZLER. Yes, sir.

Senator COUZENS. What did the initials K.F.H. represent?

Mr. KANZLER. They represented Kanzler, Fink & Higbee.

Mr. PECORA. Mr. Lord in his testimony yesterday before this committee gave the following answer, which I will read to you from pages 689 and 690 of the stenographic transcript of the minutes of the hearing:

Mr. PECORA. And the amount of cash that otherwise should have been available to pay depositors has been reduced by that policy, has it not?

Mr. LORD. Mr. Pecora—

Mr. PECORA. No. Is it or is it not?

Mr. LORD. It is in some respects; but don't forget that during the years 1930, 1931, and 1932 the Group Co. put back into those banks \$8,400,000 in cash.

Senator ADAMS. How does that compare with the amount of dividends taken out in those years?

Mr. LORD. It was more.

Mr. PECORA. What?

Mr. LORD. It was more than was taken out during those years.

Mr. PECORA. Oh, just look at your figures, and I think you will come to a different conclusion about that. During those years the amount of dividends received by the group totaled \$9,744,064.09, according to committee's exhibit no. 32 of December 20 last.

Mr. LORD. I was talking about the years 1930, 1931, and 1932.

Mr. PECORA. Well, I am adding the year 1929, which was one of the years.

Mr. LORD. All right. We will take that, of course. The Group Co. then took out \$1,300,000 in dividends over four and a fraction years less than they put in. They put in \$8,414,000, as I remember the figure.

Mr. PECORA. And took out how much?

Mr. LORD. \$9,789,000.

Senator ADAMS. In what way was the money put back?

Mr. LORD. Paying for undesirable or slow assets.

Now, Mr. Kanzler, was that done in pursuance of a policy determined upon by the officers and directors of the group?

Mr. KANZLER. Well, I remember a meeting in December of 1931, I think it was—

Mr. PECORA (interposing). Yes.

Mr. KANZLER (continuing). In which the group directors agreed to discontinue and liquidate the securities companies. And also to lift out undesirable assets from the banks and trust companies. I think that was approved at that meeting.

Mr. PECORA. What was the reason for doing that?

Mr. KANZLER. To strengthen the unit institutions.

Mr. PECORA. To strengthen the unit institutions, but it was done at the expense of the parent company, wasn't it?

Mr. KANZLER. Yes, sir; but with the units being strong, or rather without the units being strong there was no strength in the parent company.

Mr. PECORA. And if the parent was not strong the units were correspondingly weak, weren't they?

Mr. KANZLER. Within limits, yes, sir. Naturally the stronger the parent would be, the stronger the units would be.

Mr. PECORA. Wasn't the group in determining upon this policy and following it, virtually traveling in a circle; that is, covering a lot of ground but getting nowhere?

Mr. KANZLER. I think not. If it had been able to turn the corner, it would have worked itself out.

Mr. PECORA. But they did not turn the corner. They kept going round in a circle, didn't they?

Mr. KANZLER. No, sir. I think that the stockholders, in the interest of the depositors, were putting the money into the banking institutions.

Mr. PECORA. They were putting back a part of the money that they took out of the banks through the dividend policy that was pursued. Isn't that what it amounted to in substance?

Mr. KANZLER. Yes; but those were not simultaneous transactions.

Mr. PECORA. Oh! I know that.

Mr. KANZLER. And what seemed to be the judgment at one time in putting back assets, seemed to be the judgment at another time of paying dividends.

Mr. PECORA. Now, reference has been made here in the evidence to a criticism embodied in a report by the national bank examiner, of the Guardian National Bank of Commerce to the effect that the group, which was the parent company, itself owed something like 14 million dollars upon which it had to pay very heavy interest charges annually. Do you recall that reference?

Mr. KANZLER. I think I do.

Mr. PECORA. For what purposes was that indebtedness of over 14 million dollars contracted by the group?

Mr. KANZLER. I think 7 million dollars of it was in order to enable the securities companies to carry their inventories, and the other 7½ million dollars, or whatever the figure was, was to purchase those undesirable assets from the various units of the group, in order that they would be in a more liquid and cleaner condition. I think those purchases in large measure account for the strength of our units throughout the State.

Mr. PECORA. So that the group contracted a very heavy indebtedness, as the parent of the banking units, in order to enable the banking units to put on a better public appearance.

Mr. KANZLER. No, sir; not to put on a better public appearance, but to be better.

Mr. PECORA. Well, that would be reflected in their appearance before the public, wouldn't it?

Mr. KANZLER. Well, it is not only an appearance but a fact.

Mr. PECORA. It is a fact, you say?

Mr. KANZLER. Yes, sir.

Mr. PECORA. What do you know about the policy that has been testified to here that was adopted by the group of having its unit banks make certain adjustments of transactions, which would enable the unit banks to show that they owed no bills payable at various times when statements were made by the banks in response to the call of the Comptroller of the Currency?

Mr. KANZLER. Well, I know that we always tried to increase deposits during times when one would normally expect statements. I think the records of the Federal Reserve will show that bills payable usually diminish around December 31, and then become increased right after January 1. And I think that was the general practice. And we did everything we could to get increased deposits.

Mr. PECORA. Wasn't that calling for window dressing?

Mr. KANZLER. How was that?

Mr. PECORA. Wasn't that in fact simply a scheme for window dressing?

Mr. KANZLER. It was not a scheme.

Mr. PECORA. What was it?

Mr. KANZLER. It was a program to show that the group within itself had the strength to be able to get the funds to pay their bills.

Mr. PECORA. Wasn't that a false show of strength?

Mr. KANZLER. No, sir. The strength was there.

Mr. PECORA. Wasn't it a false show of strength, Mr. Kanzler, by that bank through the medium of a shifting of deposits in order to show no bills payable, and then only to have the indebtedness restored after the statement was made in response to the Comptroller's call?

Mr. KANZLER. In my opinion it showed that that bank had the accounts and the resources; showing it could get the deposits if it needed them to pay bills payable. It was not a misrepresentation but a fact.

Mr. PECORA. And you say that even though the indebtedness was restored almost immediately after the statement was made in response to the call of the Comptroller of the Currency?

Mr. KANZLER. But still it showed it had the power to pay those bills.

Mr. PECORA. Even though it was done in that fashion you say it was not a false showing of strength?

Mr. KANZLER. No, sir. I think it showed it had that power.

Mr. PECORA. Do you think it showed a true, faithful, and accurate picture of conditions?

Mr. KANZLER. It showed it had the power to pay those bills.

Mr. PECORA. I asked you: Do you think it showed a true, faithful, and accurate picture of conditions?

Mr. KANZLER. Yes, sir.

Mr. PECORA. In other words, if A owes B a note of \$1,000 falling due on, say, the 1st of June, and A pays that note by borrowing money from C and giving C his note, he has relieved himself of that indebtedness, has he?

Mr. KANZLER. Well, if A and B are brother and sister, and somebody is giving credit to the other, you know the credit is there.

Mr. PECORA. The indebtedness temporarily disappears, doesn't it?

Mr. KANZLER. That is right, sir.

Mr. PECORA. It disappears only for the period of time covered by the making of the statement in response to the Comptroller's call, doesn't it?

Mr. KANZLER. Yes, sir.

Mr. PECORA. And then almost immediately afterward the indebtedness reappears?

Mr. KANZLER. That is right.

Mr. PECORA. And you say that is not putting on a false appearance?

Mr. KANZLER. It shows the power to pay the bill.

Mr. PECORA. I asked you: You say it is not putting on a false appearance?

Mr. KANZLER. Yes, I say that.

The CHAIRMAN. When the units transferred to the group securities, and the group took up securities from the units, did the units assign and transfer those securities without recourse?

Mr. KANZLER. They were sold without recourse. It was an out-and-out sale as between two different persons.

Senator COUZENS. Mr. Kanzler, I was exceedingly interested in your answer to Mr. Pecora's question just now, and let me ask you this question: Assuming that I was applying to your bank for a loan, and that I furnished a statement to you dated as of January 1, 1933, in which statement I showed that I did not owe anything and that I was in good financial condition; but 2 days prior to that time let us assume that my uncle paid off all my debts, and he afterward came in and put in his claim for having advanced the money, would you consider such a statement as obtaining money under false pretenses?

Mr. KANZLER. Well, I would think that would not be right.

Senator COUZENS. You would think that was obtaining money under false pretenses?

Mr. KANZLER. I would think that would be wrong.

Senator COUZENS. All right.

Mr. PECORA. Mr. Kanzler, is there any difference in principle between such a transaction and the policy of the group banks in taking care of temporarily bills payable in the fashion that has been disclosed here?

Mr. KANZLER. I feel there is; yes.

Mr. PECORA. A real difference in principle?

Mr. KANZLER. I think so, because those are commercial transactions, that are handled as a matter of course in that way by institutions generally. And I think the proof of that would be found in an examination of the records of the Federal Reserve. I think you could there find proof of that fact.

Senator ADAMS. Mr. Kanzler, I do not think you are justified in saying that that is a general practice among banks.

Mr. KANZLER. Well, from my experience; I know that they come and ask us for deposits right along toward the end of the year.

Senator ADAMS. Aren't you talking about a limited locality?

Mr. KANZLER. No. I think that is generally true, because nationally we get requests for substantial balances toward the end of the year.

Senator ADAMS. Well, I do not believe you are justified in saying that is a general practice.

Senator COUZENS. Well, I simply want to say that I should hate to think it is a general practice; to say that here is a group, for instance, that can switch deposits from any place it likes, in order to make any kind of showing; that the Highland Park Bank can loan to the Industrial Bank of Flint, and that the Industrial Bank of Flint can put that in the Guardian Bank, and so on, for that would simply be going round in a circle.

Mr. KANZLER. No, sir.

Senator COUZENS. It would be simply doing that to make a showing And that substantially was done between the Highland Park Bank the Industrial Bank and the Guardian National Bank of Commerce.

Mr. KANZLER. I do not understand that there was any kiting of checks where each would give the other reciprocal checks and build up accounts. I wouldn't think that was right.

Senator COUZENS. Well, the effect would be the same if you exchanged certificates of deposit because certificates of deposit were

issued from one bank to the other in order to liquidate indebtedness; and instead of showing in bills payable it would show as deposits from other banks. A deposit from a bank is the same as a bill payable in practice. In other words, you have to pay it when the other bank calls for it, so, in effect, it is a bill payable, but it just doesn't look so good on a statement if shown as a bill payable. It is not borrowed money, but is a clean-up, the same as a demand bill payable may be a clean-up. In effect when you make a statement showing no bills payable, and you have wiped them out with a temporary deposit from one of your constituent companies, you invite depositors to come in and put in money on the theory that you do not owe anything, that you are in good, sound, financial condition. For instance, say that I read your statement as of December 31, and a day or two afterward when I go to your bank and deposit money, your bills payable are reinstated. I consider that as much a fraud upon the public as though I were to make the kind of statement for an industrial loan that I just detailed to you.

Mr. PECORA. Mr. Chairman, I want to withdraw the witness for the time being and call another witness, Mr. Leyburn. You are not excused from further attendance on the committee, Mr. Kanzler.

Mr. KANZLER. I understand.

The CHAIRMAN. Mr. Leyburn, please stand, hold up your right hand, and be sworn: You solemnly swear that you will tell the truth, the whole truth, and nothing but the truth, regarding the matters now under investigation by the committee. So help you God.

Mr. LEYBURN. I do.

TESTIMONY OF ALFRED P. LEYBURN, LAKESHORE HOTEL, CLEVELAND, OHIO; CHIEF NATIONAL-BANK EXAMINER, FOURTH FEDERAL RESERVE DISTRICT

Mr. PECORA. Mr. Leyburn, give your full name, address, and business or occupation to the committee reporter for the record.

Mr. LEYBURN. My name is Alfred P. Leyburn, Lakeshore Hotel, Cleveland, Ohio; chief national-bank examiner, Fourth Federal Reserve district.

Mr. PECORA. What section is comprehended within that Federal Reserve district?

Mr. LEYBURN. The State of Ohio, western Pennsylvania, eastern Kentucky, and five counties in West Virginia.

Mr. PECORA. Were you at one time chief national-bank examiner for the seventh district?

Mr. LEYBURN. Yes; and also a national-bank examiner out there prior to that time.

Mr. PECORA. How long have you been connected as examiner or otherwise with the Department of the Comptroller of the Currency?

Mr. LEYBURN. Since 1919.

Mr. PECORA. Will you give the committee, briefly, a history of your connection with the Department of the Comptroller of the Currency.

Mr. LEYBURN. I was a clerk in the office of the Comptroller of the Currency from November of 1919 to May 31, 1921. I was assistant national bank examiner, Fourth Federal Reserve District from May 31 to September 1, 1921. I was national bank examiner

from September 1, 1921, to August of 1923 in the Ninth Federal Reserve District, comprising Montana, North Dakota, South Dakota, and half of Wisconsin, as well as the upper half of Michigan. From August of 1923 to September 1, 1927, I was national bank examiner of the Seventh District, comprising Iowa, half of Wisconsin, the southern end of Michigan, half of Illinois, and half of Indiana. I was chief national bank examiner of the Fourth Federal Reserve District from September 1, 1927 until August of 1929. And from September 1, 1929, to May 16, 1933, I was chief national bank examiner of the Seventh District. And since that time I have been chief national bank examiner of the Fourth Federal Reserve District.

Mr. PECORA. What was the section of the country that was generally comprehended in the Seventh District while you were chief national bank examiner of that district?

Mr. LEYBURN. The industrial area of Michigan, which is what we call the southern end or the eastern end, where they have all the large cities, such as Detroit, Kalamazoo, and Battle Creek; Indiana and Illinois, half of those two States, the entire State of Iowa, and half of Wisconsin.

Mr. PECORA. Do you know a man by the name of B. K. Patterson?

Mr. LEYBURN. Yes, sir.

Mr. PECORA. Was he at one time to your knowledge connected with the Comptroller's office as an examiner?

Mr. LEYBURN. Yes, sir; for a long time. As a matter of fact, he was an examiner in Montana when I was out there.

Mr. PECORA. Did he immediately precede you as chief national bank examiner for the Seventh district?

Mr. LEYBURN. Yes.

Mr. PECORA. He has testified here, in substance, that a chief national bank examiner upon receiving reports of examinations made by field examiners under his jurisdiction, signs the reports so made by field examiners as a matter of routine, and transmits them to the Comptroller of Currency. In view of the years of experience you have had, both as a field examiner and as a chief examiner, will you tell this committee whether or not that is the rule, practice, or custom on the part of chief national bank examiners?

Mr. LEYBURN. Most certainly not. That is an insult to sign the Comptroller's office. You would not sign anything that you did not read. How would you know what is in the report if you did not read it?

Mr. PECORA. What has been the custom and practice on the part of chief national bank examiners upon receiving reports from their field examiners and transmitting them to the Comptroller of the Currency?

Mr. LEYBURN. They always read them. I know that I always read every one of them. No chief clerk ever signed a report for me; and that is true of the other chief bank examiners that I know.

Mr. PECORA. And if in the course of reading them you learn or feel that the conclusions embodied in a field examiner's report are not in accordance with your views or judgment, what, if anything, do you do under such circumstances?

Mr. LEYBURN. I call them to the attention of the Comptroller's office. And if I thought it a serious thing I would take the whole report under consideration.

Mr. PECORA. Have you ever recognized it to be the practice or custom for chief national bank examiners to sign reports of examinations made by their field examiners and transmit them simply as a matter of routine?

Mr. LEYBURN. I do not know of a single chief examiner who does that.

The CHAIRMAN. Do any of them ever authorize a chief clerk to do that?

Mr. LEYBURN. In other words, if you are going to be out of town you can designate someone in your office to sign your name; that is, if you are going to be away for a good period, but it will be some examiner. You could designate your chief clerk to sign it, but I do not know of anyone who has done that. Why, the chief clerk would not know whether to send a report in or not as a general rule.

Mr. PECORA. Now, Mr. Leyburn, during the time you were chief examiner of the seventh district were examinations made of the various banks that were units of the Guardian Detroit Union Group, Inc., under your direction or supervision?

Mr. LEYBURN. Yes, sir.

Mr. PECORA. And as reports of those examinations were made by field examiners, did you read them?

Mr. LEYBURN. Yes, sir.

Mr. PECORA. Did you at times take an active part in the conduct of the examinations of those unit banks?

Mr. LEYBURN. Not in the examinations. At the conclusion of an examination, or a number of them, I would go up there and have a meeting with the governing committee, and the examiner was always present. But I personally never made an examination of those banks, because—well, I made an examination of the National Bank of Commerce in 1925 I think.

Mr. PECORA. But you did from time to time discuss with the officers of those various banking units, the conditions disclosed by reports of field examiners?

Mr. LEYBURN. Yes, sir.

Senator ADAMS. Mr. Leyburn, you have, perhaps, heard some testimony here in reference to eliminating, for the purpose of making statements on call of the Comptroller of the Currency, eliminating bills payable under the cover of deposits. Would the Comptroller's Office tolerate that shifting if they were conscious of its being done?

Mr. LEYBURN. Most certainly not.

Senator ADAMS. Is it the practice generally among banks?

Mr. LEYBURN. I wouldn't say generally, but it is done. It is not done generally.

Senator ADAMS. It is not done with the approval of the Comptroller's Office, is it?

Mr. LEYBURN. Of course not.

Senator ADAMS. Simply if the bank is able to take care of its bills payable, of course the Comptroller's office is in control of that. But they wouldn't permit it to be immediately reestablished, would they?

Mr. LEYBURN. No. When the group first got together we found a lot of that put out in other banks, and we started to holler about it right away, and we got some of it out, especially in Niles, Ionia, and Battle Creek.

The CHAIRMAN. Does the chief national bank examiner have any sort of jurisdiction or supervision over field examiners?

Mr. LEYBURN. Yes, sir. That is what he is there for.

The CHAIRMAN. So that when a report comes in from a field examiner the chief national bank examiner has the right to take it up with the field examiner and revise his views about it, doesn't he?

Mr. LEYBURN. Yes, sir; that is right.

The CHAIRMAN. We will now take a recess until 2 o'clock this afternoon.

Mr. PECORA. Will you be back at 2 o'clock, Mr. Leyburn, please?

Mr. LEYBURN. Yes, sir.

(Thereupon, at 1 p.m., Friday, Jan. 5, 1934, the subcommittee recessed until 2 p.m. at the same place.)

AFTER RECESS

The subcommittee reconvened at the expiration of the recess at 2 p.m., Friday, January 5, 1934.

The CHAIRMAN. The committee will come to order.

TESTIMONY OF ALFRED P. LEYBURN—Resumed

Mr. PECORA. Mr. Leyburn, you testified that as chief national bank examiner for the seventh district from time to time you discussed with officers of the Guardian Detroit Union Group matters that appeared in the reports of examinations of the bank units of that group that were made by your field examiners. Do you recall that?

Mr. LEYBURN. Yes, sir.

Mr. PECORA. With regard to that bank, and that group known as "the Guardian National Bank of Commerce," the statement has been made here by witnesses appearing before this committee that there was no warrant or justification for the closing of that bank last year. Do you recall when the bank was closed?

Mr. LEYBURN. Yes, sir.

Mr. PECORA. Prior to the closing, had you familiarized yourself through the medium of reports of examinations made by field examiners under your direction, with the condition of that bank?

Mr. LEYBURN. I was very familiar with that bank and all the other national banks in that chain.

Mr. PECORA. Had you, prior to the closing of the bank, discussed on more than one occasion various phases or items of criticism with regard to that bank which had come to your notice through the medium of examinations made by your field examiners?

Mr. LEYBURN. A number of times.

Mr. PECORA. In your own way, Mr. Leyburn, and without specific questions from me, in order to save time, will you tell the committee what you know concerning the condition of the Guardian National Bank of Commerce prior to the time it was closed in February of last year, and what discussions you had with regard to the condition of the bank with any of its officers or directors.

Mr. LEYBURN. Of course, Mr. Pecora, in that question you would have to bring all the banks in that group that tie in to that bank.

Mr. PECORA. Just tell the committee in your own way.

Mr. LEYBURN. The Guardian group was formed in 1929, as I recall, the spring of 1929. Then they started to pick up some banks throughout the State at very high prices, and they made the only examinations of some of those before they were acquired, and after that time they had their own corps of examiners that made examinations of their banks, including the Guardian National Bank. The Guardian National Bank was consolidated with the National Bank of Commerce, December 31, 1931. An examination was made of the State bank at that time.

Senator COUZENS. The State bank being the Guardian Detroit Bank?

Mr. LEYBURN. Yes, sir. That showed that there was a high percentage of questionable paper in both banks. As a matter of fact, we were amazed at the condition of the Guardian Bank, because it was a new bank starting from scratch in 1929. We told them at that time that they were taking in a lot of undesirable stuff that should not go in. The consolidation went through, and from time to time, in the examinations of the other banks in the group our reports disclosed unsatisfactory conditions. Particular cases would be:

Niles, Mich., which was into its deposits. The capital was all gone. We tried to get that fixed up and new capital put in.

Another was the National Bank of Ionia; and the Grand Rapids National; and the Union Peoples of Jackson, Mich. But they were always very reluctant to charge off losses, and they always contested the loss classification, and they still wanted to keep on paying dividends. The reason they wanted to do that was that the Group Co. had obligations of about \$14,500,000, and the interest charge on that alone would be about \$850,000 a year. They were obligations to banks in New York and Chicago. The only way to get money to pay the interest off was to get dividends from the group banks, which of course, included the National Bank of Commerce.

The first examination of the consolidated bank was made May 9, 1932 and completed in June, and a meeting was held with the governing committee of that bank about June 15, or somewhere in there, and the reason why we held the meeting with the governing committee was that there were 61 directors on that board, so you could not have a meeting and tell them the condition of the bank was bad, and not have some leaks, and some "smart money" run out. At that meeting we had some of the best men in Detroit on the governing committee. At that meeting we went over the condition of all the bad banks in the group, and told them they were not justified in paying dividends, except in about two banks. Of course, that was contested; also the losses estimated at that examination, which were very nominal, \$1,198,000; and doubtful, \$11,982,000.

Mr. PECORA. Just a moment. I do not want to interrupt you any more, but I have to go back. I want to go back to the statement you just made, that you advised them, in June 1932, that the banking units should not pay dividends. With whom did you have that conference?

Mr. LEYBURN. Mr. Edsel Ford; Mott, of General Motors; and Dr. Murphy, who was chairman of the board; Covington, who was executive vice president of the Guardian Bank; and Inglis and Longley. Kingston acted as secretary of the meeting.

Mr. PECORA. What did you say to them concerning the inadvisability of the unit banks paying dividends?

Mr. LEYBURN. I told them it was a question of legality, and the fact was that they needed that money to take out losses and bad assets.

Mr. PECORA. Had you found that that was the policy of those banks, not to take out losses or bad assets?

Mr. LEYBURN. Absolutely. They always had arguments with them in the Comptroller's office, and the correspondence passing between our office and the Comptroller's office would indicate that.

Mr. PECORA. Upon what basis did these gentlemen contest the views you advanced with regard to the unit banks not paying dividends?

Mr. LEYBURN. They thought it would be bad policy if they did not pay them, and they needed the money to pay those obligations in the group, the \$14,500,000.

Mr. PECORA. Now proceed with your narration.

Mr. LEYBURN. We went over thoroughly all those banks in the group, the national banks, of course, which approximated 8 in number, as I recall it, in the group. We went into their condition, and the earnings statement showed that they did not have the earnings to pay dividends, and we needed to take out losses at that time. We also asked them about some of their State banks we happened to know about, particularly the Union Industrial of Flint, and the Union Trust Co., right across the street from the Guardian.

Then they said, "Well, we think the branch banking bill is going to pass." At that time I think it was before the House, and they said, "If that is the case, we can take the capital out of all our banks and remove losses, and questionable paper, and conduct them as branches."

I think I told them at that time that they would need some more money than that. They always stated that there was considerable strength on the board, and some money had been put in, and possibly some more could be raised if necessary. When they referred to that, they referred to Edsel Ford and Colonel Mott, I would say offhand. They were the two that had put up the money before.

We also told them they would take a heavy loss on the American State Bank which they took over. The Guardian's share of that guarantee was 18 percent, and I suppose they will lose about \$3,000,000 on their share of it. That was taken over in the spring of 1932. Then there was the repurchase agreement they had with the company, which was \$4,945,000, I think—the repurchase agreement from the group. That was an excessive loan, and the directors would be liable in case of loss.

Mr. PECORA. Can you give the committee the details of the transaction revolving around that repurchase agreement to which you have just referred?

Mr. LEYBURN. The group needed money to liquidate the Keane-Higbee Co., which was the brokerage concern they bought. That is my impression, anyway. They did not have enough to do that. They were also liquidating the Guardian Co. at that time, too, and they needed some additional money, and that was the only place to get it.

Mr. PECORA. How did they get it?

Mr. LEYBURN. By the repurchase agreement, which is the same as a loan.

Mr. PECORA. The same as a loan?

Mr. LEYBURN. Absolutely.

Mr. PECORA. At 100 percent of the collateral?

Mr. LEYBURN. It was over 100 percent of the bank's capital and surplus, making it excessive.

Mr. PECORA. I was coming to that. By means of this repurchase agreement, the group was able to borrow from the bank a sum of money amounting to over \$4,000,000, which was secured only by the securities that they agreed to repurchase.

Mr. LEYBURN. That is what it amounts to, because the guarantee—

Mr. PECORA. It amounts to the making of a loan up to 100 percent of the value of the collateral.

Mr. LEYBURN. No. It is not exactly that way. It would make more than a loan of 100 percent, for the reason that the collateral was not worth \$4,945,000, and the repurchase agreement which was the guarantee of the group was not worth a dime, because the company was broke.

Mr. PECORA. Will you give the committee the full substance of that portion of your discussions with these gentlemen about this repurchase agreement transaction?

Mr. LEYBURN. Part of it was classified as doubtful in the examiner's report, as I recall it—part of that particular loan—and we asked them how they were ever going to get it out, and told them it would have to be reduced. The Comptroller wrote them and told them the same thing. He has to, on a violation of law.

Mr. PECORA. Do you have the letter that was written by the Comptroller's Office to them on that subject?

Mr. LEYBURN. I am not sure whether I have or not. Here is one of December 7 that calls attention to it.

Mr. PECORA. Will you let me have it? What page is it?

Mr. LEYBURN. Page 9. It begins right up near the top there.

Mr. PECORA. The letter itself was addressed by the Comptroller of the Currency to the board of directors of the bank on January 28, 1933, was it not, and referred to the examination of the bank made as of December 7, 1932.

Mr. LEYBURN. That is right.

Mr. PECORA. Have you a copy of that letter before you?

Mr. LEYBURN. I have the one of December 7 here.

Mr. PECORA. Will you read it?

Mr. LEYBURN (reading):

The report of examination of your bank, completed December 7, a copy of which was furnished you, has been reviewed.

Mr. PECORA. Let me interrupt you. That letter is actually dated January 28, 1933, is it not?

Mr. LEYBURN. That is right.

Mr. PECORA. But the letter dated January 28, 1933, refers to the report of the examination of the bank made as of December 7, 1932?

Mr. LEYBURN. That is right. It takes some time to type those reports and get them down to Washington.

Mr. PECORA. Let me read that letter from the copy I have, and you follow me [reading]:

The report of examination of your bank, completed December 7, a copy of which was furnished you, has been reviewed. Despite the efforts that apparently have been put forth to improve the bank's condition through the elimination of highly unsatisfactory assets, the aggregate of criticized assets shows an increase over the previous report, the increase being particularly noticeable in the doubtful items which, in themselves, practically equal the bank's entire capital structure, exclusive of the bond depreciation of over \$2,000,000.

Your especial attention is called to the lines of the Guardian Detroit Co., Agents, \$173,685.62; Guardian Detroit Co., \$4,621,787—

Mr. LEYBURN. That had been reduced about \$300.

Mr. PECORA (continuing reading):

and Union Co., \$1,074,097.42, as set out and commented upon by the examiner on page 4-117, of which \$2,777,783 is classed doubtful. Moreover, the line to the Guardian Detroit Co. represented by the repurchase agreement on the part of the company, of which \$1,180,000 is classed doubtful, is an excessive loan. These extensions of credit are particularly objectionable and unsatisfactory, and forecast heavy losses, and they should receive such attention as will protect the banks' interest so far as possible.

Please bear in mind that the directors are liable for loss on an excessive loan. It seems hardly reasonable to believe that you are not aware of the fact that a repurchase agreement is equivalent to a loan, the excessive feature of which should be corrected without delay.

Attention is also called to the special schedules on page 9-A and continuing sheets, which show the extent to which loans have been granted on stock of the Guardian Detroit Union Group, which is, to all intents and purposes, equivalent to loaning on the bank's own stock, as the group owns all of the bank stock except the qualifying shares of the directors. This concentration should be on a substantial reduction basis.

The extent to which the other real estate account has increased, and in all probability will continue to increase, should be a source of considerable concern to you, since the present investment in these undesirable assets aggregates \$5,196,237, and apparently you were unable to dispose of any of the parcels. Present indications forecast heavy losses in the other real estate account.

I want to digress for a moment or two, Mr. Leyburn, to ask you this. The reference in this letter to the other real estate account is a reference to real estate other than that owned or occupied by the bank, is it not?

Mr. LEYBURN. In other words, it is the other real estate account of the bank, that they had title to. Some bank buildings were in their banks that they had taken over, but it is the other real estate.

Mr. PECORA. That is, the real estate other than that to which the bank had title, and which it used for its banking quarters.

Mr. LEYBURN. That is correct.

Mr. PECORA. I will resume my reading of the letter (continuing reading):

With the existing situation in your bank and the condition of the assets and bond depreciation, the bank is in no condition to pay dividends. Every dollar of available earnings would appear to be needed to effect eliminations of developing losses, and to provide for further probable defaults in the bond account. Please give careful consideration to the examiner's report at your next board meeting, and thereafter advise this office of the action taken and progress made in remedying each of the matters mentioned herein, and also mentioned and commented upon by the examiner on pages 11 and 11-F, giving names and amounts as to collections and adjustments effected in the doubtful assets; the action taken in connection with the Guardian Detroit Co., agents, Guardian Detroit Co., and the Union Co. lines mentioned above; and the large concentration of stock of the Guardian Detroit Union Group; and state whether the excessive loan referred to above has been reduced to the legal limit, forwarding the copies of your com-

munication to Chief National Bank Examiner A. P. Leyburn, 164 West Jackson Boulevard, room 1209, Chicago, Ill.

That is signed by Gibbs Lyons, Deputy Comptroller.

Prior to the sending of this letter by the Deputy Comptroller to the board of directors of the Guardian National Bank of Commerce, do I understand you to say that you discussed with the officers and members of the board of the bank the various items that are criticized and alluded to in this letter of Mr. Lyons?

Mr. LEYBURN. Yes; especially the violations of law and the repurchase agreement.

Mr. PECORA. What did those gentlemen tell you they would do, if anything, with regard to meeting the criticisms that you discussed with them?

Mr. LEYBURN. They said they would do everything in their power to correct them and, as I say, they were hoping for this branch banking bill to go through, so that they could clean out all these things.

Mr. PECORA. In other words, they hoped to take care of these items of criticism in the event that the branch banking bill was enacted by Congress.

Mr. LEYBURN. I think that is correct, beyond any question.

Mr. PECORA. By what process, in the event of the enactment of that branch banking bill, would they have been able to take care of these items of criticism?

Mr. LEYBURN. In the Guardian Bank itself, they would not have been able to do it right in this bank, but they hoped to draw the capital out of the other banks throughout the State, and take the losses out of that, and they spoke of increasing the capital of this bank, of the parent bank. It would have to have more capital.

Mr. PECORA. Had the branch banking bill been enacted, the national banks in this group, other than the Guardian National Bank of Commerce, would have disappeared as separate banking entities, and would have been operated as branches of the Guardian National Bank of Commerce.

Mr. LEYBURN. That is correct.

Mr. PECORA. And by that process the capital funds of those other national banks in the group would have been available to take care of these items of criticism; is that right?

Mr. LEYBURN. In the respective banks.

Mr. PECORA. Yes.

Mr. LEYBURN. And the idea was to increase the capital of the parent bank. Naturally they would need more capital if they had all those branches.

Senator COUZENS. Mr. Leyburn, reference is made there to a loan to the Guardian Detroit Co. agent. Do you know what that was for?

Mr. LEYBURN. I do not know whether I can tell you. There is another one in there I can tell you about, I think. That was about \$190,000, was it not?

Mr. PECORA. I will give you the amount. It was \$173,685.62.

Mr. LEYBURN. That was in the main office, and was past due when we were there, and is classed as doubtful. It represents purchases of Guardian Group stock by individuals connected with the bank, as

secured by 30,000 shares of Group stock, and 313,000 defaulted Coral Gables (Fla.) bonds.

Mr. PECORA. I want to interrupt your testimony for a moment while I ask Mr. Kanzler a question, if he will come forward for a moment, please.

TESTIMONY OF ERNEST KANZLER—Resumed

Mr. PECORA. Mr. Kanzler, you have been listening to the testimony given by Mr. Leyburn?

Mr. KANZLER. Yes, sir.

Mr. PECORA. Attention has just been directed, in the course of his testimony, to this loan to the Guardian Detroit Co., as agents, amounting to around \$173,000. Was that loan occasioned by the transaction that you referred to in your testimony this forenoon, involving the formation of a purchase group to buy 60,000 shares of the group stock in order to maintain the market?

Mr. KANZLER. I am inclined to believe it is.

Mr. PECORA. Then the acquisition of that stock was financed in part by a loan made to the Guardian Detroit Co., as agent for the subscribers to that purchase group agreement?

Mr. KANZLER. The Guardian Bank, as I recall it, had the individual signatures of every individual who was a part of that purchase group, and the Guardian Detroit Co., acting as agent, had the stock delivered to the bank. The bank picked it up, and because they could not make a distribution on this very day to the individuals in this purchase group, it was carried as a clearing transaction, to be picked up and paid for by the individuals whose names the bank held.

Mr. PECORA. Meanwhile the Guardian Detroit Co., which was used as the agent in this transaction by the subscribers to that purchase group agreement, borrowed the money from the Guardian National Bank of Commerce to enable the subscribers to that purchase group plan to pay for the stock which was bought in the open market.

Mr. KANZLER. It borrowed that money on behalf of the subscribers, in their name, for each one severally, for his proportion, and it was operated as a clearing transaction.

Mr. PECORA. Was it not more than a clearing transaction? Was not the bank extending credit to the group?

Mr. KANZLER. To the individuals in the group.

Senator COUZENS. And did the individuals later take up the stock and relieve the bank?

Mr. KANZLER. All the individuals took it up, except what I understand is listed here as "Guardian Detroit Co., agent."

Mr. PECORA. Then, there was around \$173,000 that was not taken up and paid for by individual subscribers, is that right?

Mr. KANZLER. I am assuming that is what this account is, because I have not seen the particular account. I have never heard of any other account called "Guardian Detroit Co., agent," except this one, so I am assuming that must be the one.

Mr. PECORA. Are you learning about this phase of that transaction now for the first time, Mr. Kanzler?

Mr. KANZLER. I know that there was some stock being held, to be picked up by 3 or 4, or maybe 5 individuals. That is what I do know about it, and those individuals are responsible for this stock, and it

must be in this amount, and the Guardian Detroit Co. was acting as agent for them.

Senator COUZENS. You do not know, however, Mr. Kanzler, whether these individual subscribers to this purchase agreement have relieved the Guardian Detroit Co. or the Guardian National Bank of Commerce from this \$173,000 loan, do you?

Mr. KANZLER. I am assuming they have not, at this time, although I do not know. I think there were five or six names of individuals who are indebted to the bank, with this stock as collateral, and with some other stock as collateral. How those Coral Gables bonds got into that as security I do not understand.

Mr. PECORA. What is the value of those bonds, do you know?

Mr. KANZLER. I do not know anything about that. As I testified this morning, there were 112 names in the original group, and all those people had that stock drafted out, and they paid for it, and the total sum, as I recall it, was \$3,200,000. This figure which is mentioned here today by Mr. Leyburn—whether it is paid for today or not, I do not know. Apparently that was a residue at that time that had not been paid for.

Senator COUZENS. With regard to these 112 men you spoke of, were they directors of different groups, or stockholders of the banks, or what?

Mr. KANZLER. They were people interested in the group, either as directors or stockholders.

Senator COUZENS. Did they include all the founders of the Guardian Group?

Mr. KANZLER. I think they did include all the founders.

Senator COUZENS. Did they include Frank Couzens?

Mr. KANZLER. I do not think so. In fact, I am quite certain he was not included.

TESTIMONY OF ALFRED P. LEYBURN—Resumed

Mr. PECORA. All right, Mr. Leyburn. Will you resume your testimony at the point where you were interrupted?

Mr. LEYBURN. I think Mr. Kanzler is about right on that. It is the tag end of that stock deal.

There was another loan in there of \$1,074,000, to the Union Co., it was called.

Mr. PECORA. Was the Union Co. one of the securities affiliates of the group?

Mr. LEYBURN. That had very little capital. I think it was just organized to take over these employees' and officers' loans, 102 of them. Some of them were with brokers and other banks. They formed the company, and the company borrowed the \$1,000,000 from the bank, and this stuff secured it. I think it was just a company for this purpose.

Mr. PECORA. Go ahead. You were telling about the conversation with the officers of the Guardian National Bank of Commerce, as a result of the facts disclosed by the examination of the bank of December 7, 1932.

Mr. LEYBURN. Of course, we went over a lot of the things we spoke to them about in June, because they were still there. The excess loan was still there.

Mr. PECORA. The excess loan is this loan of over \$4,000,000 that has been referred to as a credit existing under this repurchase agreement.

Mr. LEYBURN. That is right. That is the one.

Mr. PECORA. You would call that an excess loan because it amounted to more than 10 percent of the capital and surplus of the bank?

Mr. LEYBURN. That is correct; and it is set out in the report, always stating that it is excessive, and stating that the directors are liable, and everything else.

The CHAIRMAN. Did they declare a dividend after that?

Mr. LEYBURN. I think they declared a dividend in December 1932, but I would have to check that. Then, following that examination, it was about January 15 of this year that Mr. Kanzler called me—

Mr. PECORA. You mean last year, 1933?

Mr. LEYBURN. That is right, 1933. Mr. Kanzler called me on the telephone about the 15th of January and asked me when I could come over to Detroit to see him. Well, I said I could come over in about 10 days. He said "Can't you come sooner?" I told him all right.

Mr. PECORA. Pardon me, Mr. Leyburn. I have just come across the exhibit heretofore introduced in evidence, which shows that for the fourth quarter of 1932 the Guardian National Bank of Commerce paid a dividend amountint to \$150,000 to the Group.

Mr. LEYBURN. I think that is correct.

Senator COUZENS. That answers Senator Fletcher's question.

Mr. PECORA. Yes.

Mr. LEYBURN. So I went over there on a Sunday morning, at the office of the Universal Credit Corporation, which at that time was controlled by the Ford interests. Mr. Kanzler, I believe, was president or vice president of it. At that meeting, as I recall it, were Murphy and Mr. Longley, and Harry Bodman, and Covington, and we discussed all the banks of the Group, and they said: "We have to get considerably more money or the whole Group is going to collapse. The Union Trust Co. cannot hold up much longer." Of course, they owned that. Then they showed me a statement of the Union Trust Co. Then we decided to contact the R.F.C., and we figured out that probably the best way to do would be to have a mortgage company get the whole loan, because there would be about 15 banks borrowing, and it would be very hard to handle in that way. They could sell their assets to the mortgage company and the mortgage company could get the loan from the R.F.C.

Mr. PECORA. On the security of the assets the mortgage company was to acquire from the unit banks?

Mr. LEYBURN. That is correct; and there were some other things they had. They had some other company. I do not remember the name of it now, but they were going to put their assets in also—one of their affiliated companies. They thought perhaps Mr. Ford would subordinate some of his deposits in the Union Trust Co. He was the largest depositor, of course, in Detroit in all those banks. He always had over \$20,000,000 in the Guardian alone. They thought perhaps they could give a guarantee, and satisfy the R.F.C.

Then we came down to Washington and went up and saw the Reconstruction Finance Corporation. The Reconstruction Finance Corporation had made a loan to the Union Trust Co. in the spring of

1932, of approximately \$5,000,000. Later that loan was increased to \$15,000,000.

The R.F.C. talked to us about the loan. They figured there was not enough security there. And they asked all the time, "Well, what will Mr. Ford do?" And I think Mr. Longley and Mr. Kanzler contacted Mr. Ford, and the result was that he did not subordinate. Of course, I don't know what that transaction was in that connection.

The R.F.C. did not make the loan. They figured the security was not adequate, and they told them so, and the consensus of opinion of the R.F.C. board was that it was not adequate.

At that meeting was Ogden Mills, the Secretary of the Treasury then, Under Secretary Ballantine, Jesse Jones, Mr. McCarthy, who was a member from Utah, and Pomeranus.

Mr. PECORA. Pomerene?

Mr. LEYBURN. Pomerene, I guess it is; and some others, I do not recall who they were.

Their idea was all the way through, or their thought was—and they did not hesitate to say so, and I don't recall whether they stated that openly, I was in the meeting of course by myself; I don't recall whether they stated it openly or just at the meeting I was present at—but it was, "Why should we bail out Mr. Ford?" They figured that he should come to the rescue up there.

Just about the conclusion of that meeting they said, "Why we want you to get Senator Couzens to recommend this loan to us." And they didn't care much about that.

Mr. PECORA. Who didn't care much about what?

Mr. LEYBURN. About asking the Senator. Mr. Longley and Mr. Kanzler did not want to do that.

So they came up and saw the Senator, and he told them that if the loan was made, I think, he would "shriek from the housetops", or something like that, if the loan was made to the group on the basis of that collateral.

Mr. PECORA. Because the collateral was not sufficient?

Mr. LEYBURN. Inadequate, that is right; was inadequate.

So then we came back to the R.F.C., maybe it was the next day, and talked to Mr. Miller, who was president of the R.F.C. at that time from New York State, and he made the suggestion that possibly if he could talk to Mr. Ford and tell him what the situation was, that it may mean a collapse of the whole banking structure in Michigan and every other place probably, that may be he would convince him to put some money in there so the loan could be made.

It was suggested—Mr. Miller suggested possibly Mr. Hoover could invite Mr. Ford to the White House, and then he would come over there and see him, and that suggestion was put up to Mr. Ford by Mr. Longley.

Mr. PECORA. Which Mr. Ford was it?

Mr. LEYBURN. This is Henry Ford. Edsel is the son, the director of the group. Henry Ford was not a director in this group.

Then Mr. Longley came back and he said Mr. Ford's answer was that no matter who called him down to Washington the answer would be no.

Then we went on back to Detroit, and the R.F.C. men were still there making appraisals of the assets. We worked up there until the banking holiday.

Senator COUZENS. Were you present, Mr. Leyburn, when the banking holiday was declared?

Mr. LEYBURN. Yes, sir; and before that too.

Senator COUZENS. I am not asking about before that. Were you present the night that Governor Comstock issued the closing order?

Mr. LEYBURN. Yes, sir.

Senator COUZENS. At what meeting were you present?

Mr. LEYBURN. The meeting where he made up the decision.

Senator COUZENS. Who were there besides you?

Mr. LEYBURN. Under Secretary Ballantine, Secretary of Commerce Chapin, who was a director of the group and lives in Detroit, and Governor Comstock and his secretary, Mills.

Senator COUZENS. What Mills?

Mr. LEYBURN. Mills, of the First National; and Federal Reserve Agent Stevens. I think Mel Traylor was there from the First of Chicago, and Mr. Covington, and a number of the directors from the Commerce and the First National. I could not remember all of them. I think Mr. Kanzler was there and Mr. Longley.

The CHAIRMAN. Where was this meeting held?

Mr. LEYBURN. It was held in one of the board rooms of the Union Trust Co. in Detroit.

Senator COUZENS. I don't want to interrupt, but I was wondering if you could relate the discussion that took place at that meeting?

Mr. LEYBURN. Well, late in the afternoon of the 13th—

Mr. PECORA (interposing). Of February 1933?

Mr. LEYBURN. Yes, February 13, 1933—it was very apparent that no deal could be made with the R.F.C. and that the Union Trust Co. was about through. So they figured, the consensus of opinion up there, that the only thing to do would be to get the holiday there and to give them a breathing spell and maybe work out something.

So the Governor was called over from Lansing by some of the Detroit bankers. Who actually called him I don't know. When he got there it was around 8 or 9 o'clock, I think, and there was considerable discussion as to whether the holiday would be called, and he stated that he would not call it unless it was requested by the bankers in Detroit and the Michigan Bankers Association. So they made that request and he declared the holiday.

Mr. PECORA. Can you give us more of the substance of the discussion that took place on that evening prior to the calling of the holiday?

Mr. LEYBURN. Oh, there were a lot of meetings. I really couldn't tell you, sir. But the situation was serious. They all realized that.

Mr. PECORA. Tell this committee what you can recall of the substance of those discussions that were had prior to the calling of the bank holiday by Governor Comstock.

Mr. LEYBURN. That is if they could not get money from the R.F.C. or something was not done the Union Trust Co. could not hold out.

The CHAIRMAN. Were there runs on the Union Trust Co. then?

Mr. LEYBURN. There had been heavy withdrawals for quite a while on the Union Trust Co. I would not say it was an out and out run.

Senator COUZENS. What did the condition of that one bank have to do with calling the State holiday?

Mr. LEYBURN. Well, Senator, if you will let one of the largest banks in Detroit close you cannot keep the parent bank open across

the street, and they had a lot of other weak units out through the State that could not stand up anyway. It would kill the whole thing off.

Mr. PECORA. That is, the closing of one of the banking units of the group, particularly if it was one of the larger units, would have its repercussions in all of the units of the group?

Mr. LEYBURN. It could not help but have, and some of those units in the group were weak out through the State. So no question that would knock those over right away. Then we would have got a run on the First National Bank, which was in bad condition too.

Mr. PECORA. That was the principal bank of the Detroit Bankers Co. Group?

Mr. LEYBURN. That is correct, very large bank.

Mr. PECORA. Do you regard that as one of the inherent weaknesses of group banking?

Mr. LEYBURN. That the failure of one will break the others?

Mr. PECORA. Yes.

Mr. LEYBURN. Absolutely.

The CHAIRMAN. What was the condition of the Commerical at that time?

Mr. PECORA. You mean the Guardian National Bank of Commerce?

The CHAIRMAN. Yes; Guardian National Bank of Commerce.

Mr. LEYBURN. The Guardian National Bank of Commerce had got their liquidity up to about 40 percent.

The CHAIRMAN. Wasn't that ordinarily enough?

Mr. LEYBURN. In ordinary times; yes, sir.

Senator ADAMS. Had they done that at the expense of soundness?

Mr. LEYBURN. Got their liquidity up?

Senator ADAMS. Yes. Sometimes that happens.

Mr. LEYBURN. I don't think in that case it happened.

Senator ADAMS. That is what I mean; for instance, if they were selling bonds at a low market.

Mr. LEYBURN. No, they did not do that. They got it up by collections mostly. They were having it pretty hard. As a matter of fact, in 1932 Mr. Kanzler went in the group there pretty actively, and he was doing some good work there, he and Mr. Covington, but he got in a little bit too late, and the reason why we insisted on getting that liquidity of that bank up we were afraid of the other banks that were unsound throughout the State and other cases that we knew of that were not national banks that were overhanging too.

Mr. PECORA. You said something before about a plan that was discussed that involved the creation of a new company in the nature of a mortgage company which would buy from the unit banks of this group their assets and pledge those assets with the R.F.C. for a loan to be made by the R.F.C. for the benefit of all of those units. You recall the plan to which I refer?

Mr. LEYBURN. Yes, sir.

Mr. PECORA. Was that plan consummated?

Mr. LEYBURN. It never went through because the R.F.C. did not make the loan.

Mr. PECORA. Was the mortgage company created?

Mr. LEYBURN. They were either going to create a mortgage company or use one that they already had that was lying dormant.

Mr. PECORA. Was it proposed as part of that plan that that mortgage company should provide an amount of new capital?

Mr. LEYBURN. It proposed this way, as I recall it, that some of the money that Mr. Ford would subordinate would be used for capital for the mortgage company, as I recall it.

Mr. PECORA. Was that mortgage company able to obtain the required new capital?

Mr. LEYBURN. I don't think so.

The CHAIRMAN. That was about 6 million?

Mr. LEYBURN. Five million they talked of.

Mr. PECORA. Now, under date of March 14, 1931, did you, in your capacity as the chief national bank examiner for the Seventh Federal Reserve District, including the area in which the banks of this group were located, address a letter to the Comptroller of the Currency calling attention to the condition of the American State Bank of Detroit?

Mr. LEYBURN. Yes, sir; dated March 14th.

Mr. PECORA. Yes, March 14, 1931, wasn't it?

Mr. LEYBURN. Yes, sir.

Mr. PECORA. I have what purports to be a copy of that letter, which I will read to you, and will you follow me?

Mr. LEYBURN. Yes, sir.

Mr. PECORA (reading):

CHICAGO, March 14, 1931.

COMPTROLLER OF THE CURRENCY,
Washington, D.C.

DEAR SIR: The writer just returned from Detroit today in connection with the difficulties of the American State Bank of that city, which has a string of banks throughout Michigan.

In this chain are the First National Bank of Royal Oak, Mich., and the First National Bank of St. Clair Shores, Mich., and neither one of them is in satisfactory condition. Efforts will be made to recapitalize the First National Bank of Royal Oak; the American State Bank holds 600 shares of this stock, but it will probably be surrendered or we can pry it loose by an assessment.

The parent bank, the American State Bank, with deposits of over \$40,000,000, has been unsatisfactory for years. The situation became acute this week and the People's Wayne County Bank of Detroit absorbed its liabilities and the other banks in Detroit will protect. This avoided a failure.

They did not attempt to take over the deposits of the banks held by the holding company up-State, except several close in, and four of them closed yesterday morning.

On the same date, namely, March 14, 1931, did you address, in your capacity as chief national bank examiner, another letter to the Comptroller of the Currency enclosing a report of the examination of the First National Bank & Trust Co. of Kalamazoo, which was made as of February 19, 1931?

Mr. LEYBURN. That is correct.

Mr. PECORA. Will you follow me while I read into the record that letter from a copy which you have furnished to me? [Reading:]

CHICAGO, March 14, 1931.

COMPTROLLER OF THE CURRENCY,
Washington, D.C.

DEAR SIR: There is enclosed report of examination of the First National Bank & Trust Co. of Kalamazoo, Mich., which was completed February 19.

This office quite agrees with the examiner that the large lines of credit permitted upon paper-mill stock will cause serious trouble to the institution as the market is very thin, being a local one. It is further noted that the officers do not keep their collateral loans up to a conservative margin.

In your letter to the bank please stress these points to them and also insist that the estimated losses be charged off without delay, as the Guardian Detroit Group is rather inclined to decide when losses should be taken out in order that they can show better earnings. This policy is sure to make trouble at some future date.

Very truly yours,

Mr. LEYBURN. I wrote that letter.

Mr. PECORA. Up to the time that you wrote this letter to the Comptroller of the Currency on March 14, 1931 had you taken up with officials of the Guardian Detroit Union Group their policy of reluctance to charge off losses in order to enable them to pay dividends?

Mr. LEYBURN. Had it up with them a number of times in regard to all their national banks.

Mr. PECORA. And did you ever succeed in getting them to abandon that policy?

Mr. LEYBURN. I don't think I ever did. The only thing I did finally get them to do was in June to stop dividends on certain of their banks, but I always had trouble getting losses out of their banks.

Mr. PECORA. In March 1931 you said in your letter to the Comptroller of the Currency that "this policy is sure to make trouble at some future date." Did that trouble finally arrive?

Mr. LEYBURN. I would say it did.

Mr. PECORA. And when?

Mr. LEYBURN. When the bank closed.

Mr. PECORA. That was in February of 1933?

Mr. LEYBURN. February of this past year.

Mr. PECORA. That is nearly 2 years later?

Mr. LEYBURN. Yes, sir.

Mr. PECORA. Do you think that trouble could have been averted if a different policy had been pursued by the group?

Mr. LEYBURN. If they had taken a firm stand in the management of their banks and taken the losses out, I think it probably could have been.

Mr. PECORA. Did you thereafter write another letter in your capacity as chief national-bank examiner to the Comptroller of the Currency under date of May 21, 1931, with respect to that unit of this group called the National Bank of Ionia?

Mr. LEYBURN. Yes, sir.

Mr. PECORA. Will you follow me while I read into the record that letter from a copy thereof which I have [reading]:

CHICAGO, May 21, 1931.

COMPTROLLER OF THE CURRENCY,
Washington, D.C.

DEAR SIR: There is enclosed a report of examination of the National Bank of Ionia, Ionia, Mich., which was completed May 12.

When the Guardian Detroit Union Group purchased this bank, which was dominated by Governor Green, of Michigan, they were evidently actuated by political motives. They are paying dearly for that idea at the present time and the directors of this bank are taking the position that it is up to the Guardian Group to correct their present situation. The directors and their interests have not hesitated to use this bank to an unwarranted extent and it is believed that Director Green is hopelessly involved.

Please instruct the bank to charge off these losses immediately and make your letter as strong as possible. What the Guardian Detroit Union Group should really do is recapitalize this institution.

I expect to hold a conference in Detroit with the Guardian Detroit Union Group concerning several of their banks within the next 2 weeks and this case will be reviewed with them.

Very truly yours,

What was your basis for saying in this letter to the Comptroller:

When the Guardian Detroit Union Group purchased this bank, which was dominated by Governor Green of Michigan, they were evidently actuated by political motives?

Mr. LEYBURN. He was the Governor of the State at that time or shortly before; I don't recall exactly when he went out as Governor, and of course the group wanted to get legislation passed favorable to them, so if they had the Governor on their side they certainly would do pretty well.

Mr. PECORA. And was it your belief at that time that the group, in order to gain that good will, bought or took over the National Bank of Ionia?

Mr. LEYBURN. My opinion is this, that that bank was in such condition that it would have to be some motive to buy such a bank. It was terrible.

Mr. PECORA. In other words, the acquisition of the bank would not have been in pursuance of sound judgment under ordinary circumstances?

Mr. LEYBURN. That is correct.

Mr. PECORA. What were the fundamental weaknesses of the bank at that time—I mean the Ionia Bank?

Mr. LEYBURN. The management was unsatisfactory to begin with, and the loans were in bad condition, and the bond account—it was just a general, all around bad bank, and usually a bad bank has got everything wrong with it.

Mr. PECORA. What was your basis for the statement in this letter to the Comptroller on May 21, 1931, which reads as follows: "The Directors"—meaning the directors of this National Bank of Ionia—"and their interests have not hesitated to use this bank to an unwarranted extent, and it is believed that Director Green is hopelessly involved"?

Mr. LEYBURN. The directors and their corporations were borrowing heavily from that bank as of that examination.

Mr. PECORA. Borrowing it to an unwarranted extent?

Mr. LEYBURN. That is right.

Mr. PECORA. And were their borrowings adequately secured?

Mr. LEYBURN. I don't think they were.

Mr. PECORA. Do you know what was the extent of the aggregate of those borrowings by officers and directors?

Mr. LEYBURN. I would have to see the report on that.

Mr. PECORA. You don't recall?

Mr. LEYBURN. No, I don't.

Mr. PECORA. But you did know when you wrote this letter on May 21, 1931?

Mr. LEYBURN. Yes, sir.

Mr. PECORA. And it was on the basis of knowledge acquired by you from the report of the examination of the bank completed as of May 12, 1931, that you wrote to the Comptroller of the Currency on May 21 of that year that "the directors and their interests have not hesitated to use the bank to an unwarranted extent"?

Mr. LEYBURN. That was based on the examiner's report.

Mr. PECORA. And that "Director Green was hopelessly involved"?

Mr. LEYBURN. That is based on the examiner's report.

Mr. PECORA. Do you recall any of the details of this hopeless involvement of Director Green?

Mr. LEYBURN. He had a furniture company up there that was borrowing from the bank that was one of his lines. I would have to see the report to really get that.

Mr. PECORA. Now, under date of June 17, 1931, did you, in your capacity as the chief national bank examiner, address another letter to the Comptroller of the Currency in which you referred generally to the banking situation in the State of Michigan at that time and enumerated the situation with regard to different banks?

Mr. LEYBURN. Yes; I wrote that on June 17, 1931.

Mr. PECORA. Will you follow me and see if I correctly read that letter into the record from a copy thereof which I have before me [reading]:

CHICAGO, June 17, 1921.

IMPORTANT

COMPTROLLER OF THE CURRENCY,
Washington, D.C.

DEAR SIR: Regarding the banking situation in the State of Michigan, you are advised as follows:

Pontiac, Mich.: The large State bank which closed here had \$700,000 on deposit from small banks in the State and this will seriously affect those banks. The run on the First National Bank has now subsided. The Bankers Group of Detroit has a stockholding in this bank and as it is known as one of their group, it is presumed they will stand by it.

Saginaw, Mich.: The Bank of Saginaw is in a very unsatisfactory condition; it may suspend, which will cause additional trouble in that area.

Flint, Mich.: The Citizens State Bank is in bad condition and may close.

Birmingham, Mich.: The First State Savings Bank, with deposits of \$2,600,000, closed which will affect the First National Bank.

Royal Oak, Mich.: The State Bank there has closed which affects the First National Bank. We are attempting to reorganize the First National Bank at this time.

Benton Harbor, Mich.: The situation there is very acute in regard to all of the banks in the town, including the Farmers & Merchants National Bank and the American National Bank.

St. Joseph, Mich.: The Commercial National Bank is in a precarious condition. This city adjoins Benton Harbor.

Buchanan, Mich.: Buchanan is situated 14 miles from South Bend, Ind., where there has been considerable trouble. The American Trust Co. has closed, which aggravates the situation at Buchanan considerably and they have suffered withdrawals. Whether they can meet their future demands is problematical.

Detroit, Mich.: The Metropolitan Trust Co. of Detroit will undoubtedly close today. It has over \$700,000 from 44 small banks in Michigan which will seriously embarrass them.

It has just been reported that a large State bank has closed in Toledo, Ohio, which is 57 miles from Detroit, which will cause additional agitation.

National Bank of Commerce, Detroit: Mr. B. K. Patterson of the Guardian Detroit Union Group called on me today and he states that in view of the general unrest their directors are firmly of the opinion that it would be most unwise to make the charge offs as stated in my letter to you of June 13. It was agreed that they would immediately charge off \$500,000 of estimated losses and the balance of the losses by September 1, and at that time, unless the situation is very acute, they will make a set-up along the lines stated in my letter of June 13.

National Bank of Ionia, Ionia, Mich.: This is one of the worst banks of the Guardian Detroit Union Group and the situation in that county is most acute. Mr. Patterson states they have collected \$22,000 cash of the estimated losses and that they will charge off \$30,000 additional by June 30.

In view of the fact that we can expect a large number of closings in the State of Michigan among the State banks, due to the fact that they have been allowed

and encouraged to purchase real estate bonds as an offset for savings deposits, it is expected that it will affect a number of our national banks from time to time.

In view of the information as set out above, it is recommended that the National Bank of Commerce be permitted to dispose of the losses as outlined above as well as the National Bank of Ionia, Ionia, Mich.

Very truly yours,

Mr. LEYBURN. I wrote the letter.

The CHAIRMAN. As I understand, Mr. Leyburn, the National Bank of Commerce was not insolvent when it was closed, and but for the action of the Federal authorities they would have been able to go on. What have you to say about that?

Mr. LEYBURN. I answered that question a while ago and I stated that you cannot have an affiliated large bank right across the street from it close and expect the other one to stay open. They could not have met their demands in the ordinary course of business. They would have had to close, whether they were solvent or not.

Senator COUZENS. Were they solvent when they did close? The Chairman said the National Bank of Commerce now. I assume he meant the Guardian National.

Mr. LEYBURN. The Guardian. After the banking holiday, or during the banking holiday when the banks were closed up there, we went through the assets up there, and of course at that time there was no value to the Guardian Group stock. They held 149,000 shares of that alone. That was about a million and a half that would be no good. Then they had a loss on their real estate and collateral loans. No question but what the bank was insolvent after the holiday. Whether it was insolvent before the holiday is a matter of opinion. A lot of banks were insolvent before the holiday. The question of insolvency in my opinion is, Can a bank meet its ordinary demands in the ordinary course of business?

Mr. PECORA. What was the state of liquidity of the Guardian National Bank of Commerce just prior to its closing, if you recall?

Mr. LEYBURN. In December it was around 40 percent. It probably slumped off.

Mr. PECORA. December 1932?

Mr. LEYBURN. Yes. It slumped off undoubtedly in January.

Mr. PECORA. In estimating that percentage of liquidity are you including in its cash and in its governments that portion or amount of Government bonds which were pledged?

Mr. LEYBURN. No; I would not figure it that way.

Mr. PECORA. What is that?

Mr. LEYBURN. I say I would not class the ones that were pledged as liquidity.

Mr. PECORA. In the statement that the liquidity of that bank was about 40 percent, is that 40 percent exclusive of Government bonds which were pledged?

Mr. LEYBURN. That would be my opinion, yes.

Senator COUZENS. But you don't know the facts at that time?

Mr. LEYBURN. No; I didn't make the examination, so I would not know. My examiner's statement was approximately 40 percent.

Senator COUZENS. When he made that statement did he include the Liberty Bonds that were up to secure Government deposits?

Mr. LEYBURN. I would not know that, Senator. I don't think he would, though.

Mr. PECORA. Under date of October 17, 1931, did you address another letter to the Comptroller of the Currency with respect to the condition of the City National Bank & Trust Co. of Niles, which was one of the Guardian Detroit Union Group banks?

Mr. LEYBURN. Yes, sir.

Mr. PECORA. Will you follow me while I read into the record what purports to be a copy of that letter?

Mr. LEYBURN. Yes, sir.

Mr. PECORA (reading):

CHICAGO, October 17, 1931.

COMPTROLLER OF THE CURRENCY,
Washington, D.C.

DEAR SIR: There is enclosed report of examination of the City National Bank & Trust Co. of Niles, Mich., which was completed September 19.

The condition of this institution is not satisfactory and the bank should be required to make good the impairments of capital like any other institution which is not a group bank.

Subsequent to the examination Mr. B. K. Patterson of the Guardian Detroit Union Group came to Chicago and he was asked what he intended to do in regard to the Niles Bank. He advised that the impairment would be made good.

The group is most reluctant to place money in their institution when it comes to a capital impairment, but in some of their banks it is not understood how they expect to function without some new cash being placed in for capital purposes.

Very truly yours,

Mr. LEYBURN. I wrote that letter.

Mr. PECORA. Do you know whether the group made that impairment of capital of the Niles Bank good at any time after you wrote this letter?

Mr. LEYBURN. I don't believe they did. I would have to see that report on that.

Mr. PECORA. Did you, under date of January 9, 1932, address another letter to the Comptroller of the Currency, which reads as follows [reading]:

CHICAGO, January 9, 1932.

COMPTROLLER OF THE CURRENCY,
Washington, D.C.

DEAR SIR: There is enclosed report of examination of the City National Bank & Trust Co., of Battle Creek, Mich., which was completed December 5.

In conferring with Mr. B. K. Patterson, of the Guardian Detroit Union Group, he advises that the group intends to purchase real-estate mortgages from this institution in order to give them the proper liquidity. The bank is badly frozen at the present time, and there is considerable work to be done in view of the large amount of loans predicated on real estate.

The Guardian Group have placed one of their own men in the bank as executive vice president, and it is hoped that some results can be obtained in the right direction.

Very truly yours,

ALFRED P. LEYBURN,
Chief National Bank Examiner, Seventh Federal Reserve District.

Mr. LEYBURN. I wrote that letter.

Mr. PECORA. Did you, under date of February 13, 1932, address the following letter to the Comptroller of the Currency [reading]:

CHICAGO, February 13, 1932.

COMPTROLLER OF THE CURRENCY,
Washington, D.C.

DEAR SIR: It is believed we should call your attention to the letter dated February 10, 1932, from the City National Bank of Battle Creek, Mich., relative to our examination of November 20, 1931.

In checking through the estimated losses it is noted that a very appreciable amount is not charged off and although they list a certain amount of assets pur-

chased by the Guardian Union Group not any of that paper, as a matter of fact, applies to the dormant, frozen mortgages, which is the main problem of the bank; of the \$102,747.20 worth of notes purchased, the \$75,000 is a note of the Interstate Fuel & Light Co., an asset which was criticised only as slow and against which there must necessarily be some very appreciable return.

On the O. C. DeVol loan of \$35,718.05 a loss was estimated of \$16,500 and doubtful \$4,000; the loss was not charged off, but an explanation was given that security had been obtained in the interim. We should like to know the nature of the security because of the weak condition of this loan to determine fully whether that obtained was merely "collateral" or security within the meaning of the word. The \$11,000 estimated as loss on the B. J. Oneu line was not charged off and a notation is cited "we believe satisfactory arrangements can be made relative to this line in the near future."

There were also several other items listed as loss that were not charged off.

This bank is in a highly deplorable condition and one needs merely to look at its cash position and the serious ratios as evidenced by the face of the report to prove that thesis, even without recourse to an analysis of the credit; that analysis of credit fully substantiates the weak status evidenced by the face of the report.

We take exception to what has been and is the apparent policy of the Guardian Group toward the examiner's reports in their weak banks when justifiable and appreciable losses are estimated (for instance, Ionia, Grand Rapids, Niles, and Battle Creek) and two of those instances, namely, Niles and Ionia, if they were not members of the Group, would be banks that would necessarily close. There is an utter lack of desire to remove bad bank assets, even though losses were estimated on a reasonable and conservative basis.

This instance of the City National Bank of Battle Creek clearly illustrates an adherence of the Guardian Group toward examinations which is neither commendable nor justifiable.

Very truly yours,

ALFRED P. LEYBURN,

Chief National Bank Examiner, Seventh Federal Reserve District.

MR. LEYBURN. I wrote that.

MR. PECORA. Do you know whether or not the Group changed the policy that you complained of in this letter, after this letter was written?

MR. LEYBURN. They never changed the policy at any time.

MR. PECORA. Under date of May 9, 1932, did you write another letter to the Comptroller of the Currency reading as follows [reading]:

CHICAGO, May 9, 1932.

COMPTROLLER OF THE CURRENCY,
Washington, D.C.

DEAR SIR: A meeting was held with President Reynolds and Vice President Clark, of the Union & Peoples National Bank of Jackson Mich., and Messrs. B. K. Patterson and Robert Lord, of the Guardian Detroit Union Group in Detroit.

They are very much disturbed about the condition of this bank and their other institutions and said that Mott of General Motors and Edsel Ford have loaned money to the group through the corporation to remove losses. While the national banks in the group are in bad enough shape, it is a known fact that the State members of the group are in a deplorable condition, particularly the Union Guardian Trust Co. of Detroit. Most of the money obtained by a loan through the affiliated company has removed losses in the State banks.

The management of the Jackson bank is very unsatisfactory. This institution was a haven for speculators in prosperous times and it is not believed that the present officers are willing or capable of coping with the situation.

Lord and Patterson are emphatic that if a charge off is made of \$309,000 against their capital structure the effect would be disastrous. In lieu thereof they agree to cease dividends immediately, which, of course, should have been done long ago, charge off \$100,000 at this time, and care for the balance as earnings will permit, and Mr. Patterson will spend several days a week in Jackson looking after the affairs of this bank.

While the writer is most averse to any such arrangement and cannot see any future in a so-called "moratorium on losses" in the Guardian Detroit Union Group, it is believed, in view of their promise to clean up their banks through

the elimination of capital structure if the branch banking bill goes through, that we are justified to grant them this leeway, inasmuch as the branch banking bill is now before the House. This office does not desire to take the responsibility of doing anything that would injure the banking situation in the State of Michigan, which is in a precarious condition. As a matter of fact, it would take very little to set off a conflagration. This might be brought about by the failure of any one of the following three banks:

The Citizens Commercial & Savings Bank, Flint, Mich., with deposits of \$8,307,070;

The Bank of Saginaw, Saginaw, Mich., with deposits of \$15,838,010; or

The Bank of Kalamazoo, Kalamazoo, Mich., with deposits of \$8,870,970.

Without any question, the banks in the Guardian Detroit Union Group are not in satisfactory condition and the allied strength is more of a myth than a reality, in the writer's opinion.

If the branch banking bill doesn't go through, it is apparently their idea to remove losses from earnings, but when you take into consideration the condition of their banks, this is manifestly impossible.

Very truly yours,

ALFRED P. LEYBURN,

Chief National Bank Examiner, Seventh Federal Reserve District.

Mr. LEYBURN. I wrote that.

Mr. PECORA. What were the conditions that prompted you to say in this letter that I have just read, as follows [reading]:

Without any question, the banks in the Guardian Detroit Union Group are not in satisfactory condition and the allied strength is more of a myth than a reality, in the writer's opinion.

Mr. LEYBURN. In view of the heavy burden of the group company I did not figure there was any strength to the group itself, and we knew the condition of the banks.

Mr. PECORA. Did you, under date of June 13, 1932, address a letter to Robert Lord, president of the Guardian Detroit Union Group, reading as follows [reading]:

CHICAGO, June 13, 1932.

Mr. ROBERT LORD,

Guardian Detroit Union Group, Detroit, Mich.

DEAR SIR: Referring to my conversation with you in Detroit last Friday concerning the Grand Rapids National Bank of Grand Rapids, Mich., after considering this situation, there is nothing that I can add other than it is requested that the losses be charged out.

This is in accordance with the letter of May 26 which was addressed to the bank by the Comptroller of the Currency, a copy of which is enclosed.

Very truly yours,

ALFRED P. LEYBURN,

Chief National Bank Examiner, Seventh Federal Reserve District.

Mr. LEYBURN. I wrote that, and I enclosed a copy of the criticism that the Comptroller's office had written to the Grand Rapids National Bank.

Mr. PECORA. Do you know what was done by Mr. Lord or any other officer of the Guardian Detroit Union Group about the subject matter of this letter of June 13, 1932?

Mr. LEYBURN. I would not know what action they took, but the losses were not charged out. If they were, it would be a very small amount.

Mr. PECORA. Did you, under date of June 14, 1932, address a letter to the Comptroller of the Currency reading as follows [reading]:

COMPTROLLER OF THE CURRENCY,
Washington, D.C.

CHICAGO, June 14, 1932.

GUARDIAN DETROIT UNION GROUP

DEAR SIR: In order to arrive at a true picture, it is necessary to consider all the national banks in the group.

The classification shown in the report of examination of the Guardian National Bank of Commerce, Detroit, Mich., as of May 16, 1932, is Slow \$22,000,000, Doubtful \$11,982,000, and Loss \$1,198,000.

A meeting was held with the governing board consisting of approximately eleven leaders of industry and finance, including Edsel Ford and Mott, of General Motors, in Detroit, and at that time the entire group was discussed with them in order to arrive at some solution of the problem.

The Guardian group of banks was somewhat of a promotion scheme and in order to show satisfactory earnings in the holding company dividends were declared far beyond the point of conservatism and losses were not taken in the banks. They have always been extremely reluctant to charge off losses and have always desired that they be taken from earnings but the record of earnings of these banks is most unsatisfactory and this plan would not permit the elimination of many losses.

The Guardian Detroit Co.'s condition is very unsatisfactory as they took over the Keane Higbie Co. for liquidation, which was a brokerage concern, and at the present time they are borrowing over \$14,000,000. Mr. Edsel Ford personally guarantees \$2,500,000; Colonel Mott \$2,500,000, and Mr. Ford, in addition, has loaned the company about \$5,000,000 in Liberty Bonds which are used as collateral to the company's obligation in New York. Of course, it can readily be seen that the fixed charges on these obligations are considerable and they have attempted to pull themselves up by their boot straps by obtaining sufficient dividends from the Group to pay these charges and also make payments on notes.

Obviously this is impossible and it was decided that the only national banks in the Group justified in paying dividends are as follows:

Second National Bank & Trust Co., Saginaw, Mich., \$100,000 per annum.

Capital National Bank, Lansing, Mich., \$30,000 between now and the end of the year.

While the Guardian National Bank of Commerce has considerable doubtful paper that might be properly classified under existing conditions as a loss, in view of the fact that this bank has been capably administered by Vice President Covington, it was decided that the dividend would be cut to \$100,000 per quarter instead of \$200,000 per quarter. It is believed that this is advisable in view of the adverse comment that would be caused should the largest bank cease its dividend entirely.

It is very apparent that Mr. Lord of the Guardian Group is not a banker and that he never has been and never will be one. He is more of the "glad-hand" promotion type and he always chooses the path of least resistance, which has now created the present problem with the group. It is apparent that Kanzler, who is Edsel Ford's brother-in-law, will step more energetically into the picture and endeavor to correct the situation in the banks. They also have a good man in Wilkins, who will look after some of the banks throughout the State in which the Guardian Group is interested.

The worst national banks in this group are:

City National Bank & Trust Co., Battle Creek, Mich.

Grand Rapids National Bank, Grand Rapids, Mich.

National Bank of Ionia, Ionia, Mich.

Union & Peoples National Bank, Jackson, Mich.

City National Bank & Trust Co., Niles, Mich.

First National Trust & Savings Bank, Port Huron, Mich.

It is understood that the State banks in the chain are even worse than the National banks, and the Union Guardian Trust Co. of Detroit would be the most unsatisfactory, in our opinion.

One of the weaknesses in connection with the group seems to be that no one has any definite delegated authority to act. The group organization, because

of its own financial weakness and management, is very much at the mercy of the other banks—that is to say, the parent organization needs funds to pay the interest on its borrowings through the company and to pay the various salaries in the operating company. They therefore have been reluctant to put much pressure on certain banks as they desire reimbursement from them in the form of dividends.

Another bad feature is the number of high-salaried officers in all the banks who have substantial loans that are largely predicated on Guardian stock, which, at the present writing, is selling at about 8, and it is expected that the dividend will be cut off entirely July 1. This is done to a large extent so that the officers can pay the interest on their loans, all of which, of course, is a drain on the banks and does not forestall them from eventually taking a loss on the obligations, since in a number of cases they will never be paid. In several instances the bank would be better off to dismiss the officer and charge off the loan.

While the picture as a whole is not one that is very bright, it is believed the following steps in the right direction have been arrived at. Edsel Ford and Kanzler will be more active in the management, and they will dictate the policies to a greater extent than heretofore. In this connection, in view of the fact that Edsel Ford's name has been prominently used in the Guardian Group, it is not known how he could retire gracefully from the picture should be so desire at some future date, and then, too, he has considerable invested. Mott, of General Motors, who is the man that saved the situation at Flint several years ago, is a high type of character and has never been known to run away from his obligations. With all the earnings being conserved and the question of dividends being settled, it is hoped that we can accomplish something in this institution.

It would appear as if Mr. B. K. Patterson, chose to follow the dictates of Mr. Lord and the wrong clique in the group, with the result that the fact that he did not take a firm stand on matters to be corrected has mitigated considerably against his favor; in addition, he became heavily involved through the purchase of Guardian Detroit stock.

We are forced to the conclusion that group banking is fundamentally unsound and dangerous and that it constitutes a menace to the general banking situation. The company that is supposed to have strength, in the final analysis, is generally loaded with stock of the banks and undesirable assets and is certainly used as a medium to make the lopsided wheel revolve. It is also very difficult to inculcate the views of the group's head office to the members throughout the State, and the member banks too often take the stand that they only have a little stock interest and that the responsibility for any losses should devolve upon the group itself. Every effort is usually made to show high earnings at the expense of the undesirable assets in the banks, and rather than take the losses in each bank, they are more apt to let them pile up using the blind theory that the group is strong and will stand by the banks.

Very truly yours,

ALFRED P. LEYBURN,

Chief National Bank Examiner, Seventh Federal Reserve District.

Mr. LEYBURN. I wrote that letter.

Mr. PECORA. It is dated June 14, 1932.

Mr. LEYBURN. That was after that meeting that was held to discuss the banks.

Senator COUZENS. Did you get any acknowledgment of any of those letters by the Comptroller? Does the Comptroller acknowledge these letters usually?

Mr. LEYBURN. No, sir.

Senator COUZENS. That is not a practice of the Department?

Mr. LEYBURN. No, sir; it is not a practice of the Department.

The CHAIRMAN. The committee will now take a recess until 10:30 a.m. next Tuesday.

(Thereupon, at 4 o'clock p.m., a recess was taken until Tuesday, January 9, 1934, at 10:30 o'clock a.m.)



STOCK EXCHANGE PRACTICES

THURSDAY, JANUARY 11, 1934

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON
BANKING AND CURRENCY,
Washington, D.C.

Ths subcommittee met at 10:30 a.m., pursuant to adjournment on Friday, January 5, 1934, in Room No. 301 of the Senate Office Building, Senator Duncan U. Fletcher presiding.

Present: Senators Fletcher (chairman), Adams (proxy for Costigan), and Couzens.

Present also: Ferdinand Pecora, counsel to the committee, Julius Silver and David Saperstein, associate counsel to the committee; and Frank J. Meehan, chief statistician to the committee.

The CHAIRMAN. The subcommittee will come to order. You may proceed, Mr. Pecora.

Mr. PECORA. We will resume with Mr. Leyburn.

TESTIMONY OF ALFRED P. LEYBURN—Resumed

Mr. PECORA. Mr. Leyburn, during the latter part of the year 1931 was any definite policy adopted by the Comptroller of the Currency with respect to the exercise of duties by national-bank examiners?

Mr. LEYBURN. Well, with regard to what?

Mr. PECORA. I refer particularly to the matter of examiners appraising securities and other assets of banks.

Mr. LEYBURN. Yes, sir.

Mr. PECORA. Was that policy indicated in any written communications by way of instructions that were given to examiners by the Comptroller of the Currency?

Mr. LEYBURN. By telegram and letters.

Mr. PECORA. Was one of the telegrams dated October 6, 1931?

Mr. LEYBURN. Yes, sir.

Mr. PECORA. Did you receive one on that date, or bearing that date, reading as follows:

OCTOBER 6, 1931.

A. P. LEYBURN,
Chief National Bank Examiner,
164 West Jackson Boulevard, Chicago, Ill.

Please instruct all examiners to exercise extraordinary discretion in their work, and to use every effort to encourage and sustain the morale in banks examined.

Leniency consistent with proper regard for public interest should be extended. Present conditions demand sympathetic treatment on the part of this office, and examiners can in important measure contribute to the alleviation of the difficult problems with which we are temporarily faced.

J. W. POLE, *Comptroller.*

Mr. LEYBURN. Yes, sir. That went to all chief examiners.

Senator COUZENS. Mr. Leyburn, in that connection let me ask what instructions did you give your examiners with respect to that telegram?

Mr. LEYBURN. Approximately the same as the instructions contained in here.

Senator COUZENS. You just transmitted the telegram to your subordinates, so to speak?

Mr. LEYBURN. Yes, sir.

Mr. PECORA. Well, now, what did you understand by the statement in this telegram of instructions in which examiners were instructed to exercise extraordinary discretion in their work, and to use every effort to encourage and sustain morale in banks examined?

Mr. LEYBURN. Of course, in 1931 and 1932 the morale of bankers was badly shattered all over the country, and it just meant that we were to pep them up as much as we could, and not to make any unusual demands, such as might cause them to throw up their hands and quit.

Mr. PECORA. What did you understand the Comptroller to mean by the instruction reading:

Leniency consistent with a proper regard for public interest should be extended. Present conditions demand sympathetic treatment on the part of this office, and examiners can in important measure contribute to the alleviation of the difficult problems with which we are temporarily faced.

Mr. LEYBURN. I would say in that regard it would be more a matter of public policy than anything else. That is, if you made unusual demands on a bank it might crowd the situation, and if it should cause a number of closings, then you would have hurt public policy, and have gone contrary to the very spirit of the telegram.

Mr. PECORA. In what respect did you consider this telegram to require you to show leniency consistent with a proper regard for public interest?

Mr. LEYBURN. I construed that telegram to mean, to be very lenient in the examination of banks, plainly speaking, and in the matter of demands.

Mr. PECORA. Well, to be lenient in the examination of banks is a rather general expression. How would you apply it?

Mr. LEYBURN. Well, for instance, suppose you found a bank that had a surplus of a million dollars, and on a close appraisal on a depressed market you had a loss of $1\frac{1}{2}$ million dollars. Like, for instance, Chrysler Motors, during the bank holiday that stock was selling at about 10, and now it is up around 52. And in the case of General Motors it was then selling around the same figure, and is now selling about 36. If you had a good stock up as collateral, and not some cats and dogs, you would give them a break on that, and not charge out $1\frac{1}{2}$ million dollars.

Senator ADAMS. That was in part a recognition of the general view that market values at that time were below fair values, and that it was due to depressed conditions, both as to stocks and bonds. That is, apparently good bonds, bonds that everyone knew to be good and would be paid, but which had dropped to 25 or 30, the result would have been if you had required a bank to charge down those bonds in accordance with the depressed, abnormal, or panic market, you would

have made a disastrous, and a really untrue statement as to the bank's ability to pay its depositors.

Mr. LEYBURN. Intrinsic value.

Senator COUZENS. Mr. Leyburn, will you define the language that has been used here frequently, such as "cats and dogs"? What is the definition of cats and dogs among such

Mr. LEYBURN. Why, I should say it would be a stock that was purchased in a mine known as the "Bonanza-so-and-so", and probably owned by a champion liar, or something like that, or some promotion scheme, something that had no market value, was not quoted on any exchange.

Senator COUZENS. Is that all of the definition of "cats and dogs"?

Mr. LEYBURN. I should say undesirable securities.

Senator COUZENS. Will you give us some other definition?

Mr. LEYBURN. I would say second and third mortgages would be cats and dogs.

The CHAIRMAN. How did you estimate the values of bonds at that time? Did you use market value or quoted value or actual value?

Mr. LEYBURN. Here is the way that was handled. We took the market value, but the regulations from the Comptroller's Office were that no charge-off on account of bond depreciation should be made, except actual losses in the case of defaulted bonds. So they got plenty of leniency there. Of course if the total bond depreciation encroached on a bank's capital we would have to get that fixed up.

The CHAIRMAN. You construed this telegram to mean that you could allow estimated values of bonds without regard to quoted prices on the market?

Mr. LEYBURN. No. I would construe that in this way: We appraised them at the market, but with no demand on them to charge off the depreciation.

The CHAIRMAN. I see.

Senator ADAMS. Your examiners made reports always listing at the market value as a part of the reports, didn't they?

Mr. LEYBURN. Yes, sir.

Senator ADAMS. And showed the depreciation below book value on the bank's books, and the market value of the stock; but you did not always require them to reduce the book value down to the market value?

Mr. LEYBURN. That is right.

Mr. PECORA. Now, Mr. Leyburn, did you also on the date of December 18, 1931, receive a letter of instruction from the Comptroller of the Currency with respect to the policy to be adopted and followed by examiners in making bank examinations, which letter reads as follows:

WASHINGTON, December 18, 1931.

To all National Bank Examiners:

The collapse in the market for securities has, in the opinion of this office, reduced quoted prices for sound bonds to distress levels, out of any relation to intrinsic values.

In the emergency that results, examiners are instructed until further notice to disregard market depreciation upon bonds not in default. Bonds should be rated and appraised as heretofore, but no part of the depreciation, except that upon defaulted issues, should be shown on page 11 of the report. Depreciation of defaulted bonds should be regarded as losses and shown as such on page 11.

Where the examiner is of the opinion that the quoted securities of the portfolio of the bank under examination is such as to point to serious loss, he should indi-

cate his conclusions in his report to this office, with recommendation as to appropriate action. In such cases he should discuss the situation with the directors and urge recourse to methods by which the bank may be strengthened, but should make no mandatory requirements.

Examiners are expected to ascertain the exact condition of national banks, but to make it plain by their attitude they wish to be helpful in devising means for correcting weak situations.

There has never been a time when there was greater need for constructive work by examiners, and every effort should be made to encourage and sustain the morale in banks examined, and leniency consistent with a proper regard for public interest should be extended.

This is a confidential communication and must be regarded as such.

Respectfully,

J. W. POLE,
Comptroller of the Currency.

Did you receive such a communication?

Mr. LEYBURN. Yes, sir. That was a letter.

Mr. PECORA. Now, thereafter did you receive a further communication of instructions from the Comptroller of the Currency, reading as follows:

JULY 1, 1932.

To all Chief National Bank Examiners:

Reports of examinations received by this office recently clearly indicate that some examiners have not fully grasped the meaning of previous instructions issued by this office during the past year with respect to examinations, more particularly the instructions issued under date of October 6, 1931.

And it would also seem that some examiners may not have fully appreciated the extremely abnormal business conditions and the weakened condition of the securities market at this time. Specific attention is called to the classification of loans and discounts, particularly collateral loans which are in amounts in excess of the present market value of the collateral held. In the classification of such loans the examiner should exercise extraordinary discretion.

In addition to giving consideration to the present weak condition of the securities market, very careful consideration should be given to the worth of the debtor, morale, standing, and earnings expected.

You will please instruct examiners in your district accordingly.

Please acknowledge receipt of this letter.

Very truly yours,

J. W. POLE, *Comptroller.*

Mr. LEYBURN. I received that letter.

Mr. PECORA. Did you communicate these instructions to the various examiners who were under your direction or jurisdiction?

Mr. LEYBURN. Yes, sir.

Mr. PECORA. So far as you know, were those instructions followed by the examiners under your jurisdiction who made examinations of the various national banks that were included in the Guardian Detroit Union Group?

Mr. LEYBURN. I am of the opinion that they were.

Mr. PECORA. That is, whatever report was made of the conditions of the banks was made in accordance with the letter as well as the spirit of the instructions embodied in these three communications which I have read?

Mr. LEYBURN. I am of that opinion.

Mr. PECORA. With the leniency that was exercised in response to these instructions in the examinations and valuations of the assets of these banking units of the Guardian Detroit Union Group you made the criticisms that have already been alluded to in your testimony and the testimony of other witnesses before this committee?

Mr. LEYBURN. That is correct.

Mr. PECORA. With what officers of the Guardian Detroit Union Group did you from time to time have conferences or discussions with respect to the condition of the unit banks of the group examined by you and your field examiners?

Mr. LEYBURN. It was usually with Mr. Patterson, Mr. Lord, and Mr. Kanzler—although Mr. Kanzler did not get actively into that end of it, where I came in contact with him, until early in 1932; and then at the board meeting in June 1932, we went over the condition of the unit banks, and at that meeting were Mr. Mott of the General Motors, Dr. Murphy, Mr. Bodman, Edsel Ford, and some others whose names I cannot recall at the moment. I can check them for you.

Mr. PECORA. Was that the meeting at which Field Examiner Walker was present?

Mr. LEYBURN. Yes, sir. He made the examination starting May 9 and finishing in June, and he had also made an examination of a number of the banks of the Guardian Group throughout the State. That was his district.

Mr. PECORA. Was it at that meeting that Examiner Walker made a statement in substance to the effect that the group had bought a number of its unit banks when it knew that they were not sound or in good condition?

Mr. LEYBURN. He made the statement, as I recall it, that they bought some of the banks when they knew they were rotten.

Mr. PECORA. What followed as a result of that statement?

Mr. LEYBURN. We almost had a riot, and the remark was later withdrawn, to keep peace in the family; but that did not change his opinion any.

Senator ADAMS. Nor the fact?

Mr. LEYBURN. That is correct, sir.

Mr. PECORA. It was withdrawn in a parliamentary sense?

Mr. LEYBURN. That is right; as a matter of policy.

Mr. PECORA. The sentiment remained?

Mr. LEYBURN. Correct.

Mr. PECORA. Did he particularize the unit banks that he considered rotten at the time they were acquired by the group?

Mr. LEYBURN. He mentioned some of them. I will have to give that from memory. He mentioned Ionia in particular, and Jackson and Niles, and possibly some others.

Senator COUZENS. I observe that between the instructions that you received in October and December of 1931 and July 1, 1932, no reference was made to the leniency that was to be given to collateral loans, but only to the portfolios. Did you, between October and December 1931 and July 1, 1932, exercise the same leniency with respect to collateral loans as you did with respect to the portfolios?

Mr. LEYBURN. I am of the opinion that we exercised greater leniency on collateral loans than on the other kind; and in that letter in 1932 specific attention was called to the classification of loans and discounts, particularly to collateral loans.

Senator COUZENS. But in the prior communications which you received in October and December 1931 no reference was made to collateral loans, but only to portfolios; and I just wondered whether you exercised the same consideration with respect to collateral loans

during the period from October 1931 until July 1, 1932, as you did with respect to the portfolios.

Mr. LEYBURN. I am of the opinion that we did.

Senator ADAMS. To what extent, roughly, was the policy of the Comptroller's Office justified by subsequent events in the matter of leniency?

Mr. LEYBURN. Senator, time alone will tell.

Senator ADAMS. I mean, as far as it has apparently been demonstrated now. Has there been a substantial justification of it?

Mr. LEYBURN. I do not believe I am that good a prophet.

Senator ADAMS. I was not asking you for prophecy.

Senator COUZENS. I think that is a very pertinent question. I wish the witness would express an opinion at least as to whether, in his judgment, from close contact, the leniency was justified.

Mr. LEYBURN. You are trying to "put me on the spot", aren't you?

Senator COUZENS. No; there is no censorship here about giving opinions.

Mr. LEYBURN. Let me have that question again.

Senator ADAMS. My inquiry was this. There was a certain policy laid down in instructions for you to exercise leniency and to give consideration to the depressed condition of the market, and I want to know to what extent events subsequent to that time have justified that policy.

Mr. LEYBURN. I will give you my opinion now.

Senator ADAMS. That is what I was asking for.

Mr. LEYBURN. It does not represent the views of the Comptroller's office or the Treasury Department or anybody else; this is my own. If this policy had not been followed we would have had the crash in 1930 instead of in 1933. There is no doubt about that, in my mind. It was just a question of how long. Did you want it in 1930, or did you want it in 1933?

Senator COUZENS. In your opinion, would it have been better to have it in 1930 than in 1933?

Senator ADAMS. It could not have been worse.

Senator COUZENS. It could not have been worse; and I assume that that is a rather ridiculous question.

Mr. LEYBURN. My opinion is that it would have been better if it had been in 1930.

Senator COUZENS. That is all. I just wanted to get some expert's opinion.

Mr. LEYBURN. I thank you for the compliment.

The CHAIRMAN. You mean that the results would not have been as disastrous if it had begun in 1930 and we had put the banks on a settled or stable basis at that time?

Mr. LEYBURN. That is my opinion, sir, my personal opinion.

Senator ADAMS. You had, did you not, in the banks generally during this unsettled condition in 1931 and 1932, and the occasional failure of banks, a decrease in bank deposits throughout the country of some thirteen or fifteen billion dollars which tended to continue the tightened conditions?

Mr. LEYBURN. That was all over the country; and of course they had to liquidate their best securities to meet that in a number of cases.

Senator ADAMS. There really was a decrease, dropping from almost sixty million dollars, as I recollect the grand total, until it got down to about forty-five billion at the time of the closing?

Mr. LEYBURN. I do not know the exact figures, but there was a decrease in bank deposits in the past 3 years, there is no question about that, all over the country.

Mr. PECORA. Do you recall that an examination was made by your field examiners of the Guardian National Bank of Commerce as of November 9, 1932, which was completed about December 7, 1932?

Mr. LEYBURN. That was the Consolidated Bank; yes, sir.

Mr. PECORA. And that was the last examination that was made of that bank, was it not?

Mr. LEYBURN. That is correct; completed on December 7.

Mr. PECORA. Do you recall what was disclosed by that examination with regard to the amount of doubtful and slow assets and losses?

Mr. LEYBURN. Slow, \$25,388,000; doubtful, \$18,695,000; losses, \$456,000, which was a loss on defaulted bonds. Nothing was charged off for the loans. At that time the repurchase agreement was \$4,621,787. It had been reduced from \$4,945,000, I think it was. And in addition to that, the bond depreciation was around close to \$2,000,000, I believe, at that time.

Mr. PECORA. What were the capital and surplus of the bank at that time?

Mr. LEYBURN. The capital was \$10,000,000 and the surplus was \$5,000,000.

Senator ADAMS. That is the book surplus and capital?

Mr. LEYBURN. That is the alleged surplus and capital.

Senator COUZENS. "Alleged" is well put.

Mr. PECORA. When this examination disclosed slow assets of over 25 million and doubtful assets of 18 million did you take the matter up with the officials in charge of the group or the bank?

Mr. LEYBURN. At the conclusion of the examination in December I went up there and held a meeting at which the examiner was present; and I have a list of directors who were at that meeting.

Mr. PECORA. Who were they?

Mr. LEYBURN. Lord, Covington, Edsel Ford, Mott, Murphy, Kanzler, and vice-president Kingston acted as secretary of the meeting.

Mr. PECORA. Will you give this committee the substance of the discussion that ensued between you and your field examiner and the members of this board with whom you discussed the report made by your examiner?

Mr. LEYBURN. As I recall it, that their liquidity had been brought up from about 20 to 40 percent, which was commendable, and that they should keep highly liquid in the parent bank in view of the condition of the other banks throughout the State that we knew to be in bad condition, and especially the Union Trust Co. across the street, and that their credit department had shown some improvement. We were of the opinion that considerable more loss should be charged out of that bank. They were fearful that if they tapped the surplus to any appreciable extent it would cause considerable trouble. So then we agreed that they would charge off only the loss on defaulted bonds and nothing on the loans and discounts.

Senator COUZENS. Were there any defaulted bonds in the loans and discounts?

Mr. LEYBURN. No; that is a separate thing.

Senator COUZENS. What I mean is this. When you did not compel the charging off of any of the loans and discounts, were there any defaulted bonds as security for those loans and discounts?

Mr. LEYBURN. Of course in any bank, Senator, they might be all right when they took them, but—

Senator COUZENS. I understand that they would not be in default when they took them. But you did not compel any charge off?

Mr. LEYBURN. No, sir.

Senator ADAMS. Were defaulted bonds charged off absolutely or charged down to the then market for that particular bond?

Mr. LEYBURN. To the market; never charged off completely.

Mr. PECORA. The field examiner in charge of the examination of the Guardian National Bank of Commerce at that time was Mr. W. A. Reagan, was he not?

Mr. LEYBURN. I am sure that he was. Does it show on top of the report there—W. A. Reagan?

Mr. PECORA. Yes. Now, let me read to you a comment or criticism made by Examiner Reagan and by yourself as chief examiner in the report made to the Comptroller of the Currency with respect to this examination, under the caption of "General remarks. Include here criticisms and reasons therefor which the examiner does not deem advisable to state in the report proper."

Mr. LEYBURN. Are you reading from the supplementary report, or page 11?

Mr. PECORA. The supplemental report. [Reading:]

The condition of this bank is very unsatisfactory, and the stock ownership by the Guardian Detroit Union Group adds nothing to strengthen the picture. The Group has heavy debts of its own, approximately \$14,000,000, and it is necessary for them to find ways and means to liquidate some of their own debts, and have no funds or assets with which to assist the member banks. Group assets consist almost entirely of bank stocks which are not productive of dividends. It was frankly stated that the Group was very much interested in coming national legislation in the hopes that State-wide branch banking will be legalized and in that way rearrange their capital structure in such a way as to provide substantially for elimination of losses in their member banks. Just how far this capital structure will go toward the accomplishment of this end is a problem, but it should only be permitted to be done under the direct supervision of the Department—

Senator ADAMS. Would you read that again about national legislation?

Mr. PECORA (reading):

It was frankly stated that the Group was very much interested in coming national legislation in the hopes that State-wide branch banking will be legalized and in that way rearrange their capital structure in such a way as to provide substantially for elimination of losses in their member banks. Just how far this capital structure will go toward the accomplishment of this end is a problem, but it should only be permitted to be done under the direct supervision of the Department. The losses in this bank, as admitted at its examination, are nominal as compared with their questionable assets that it was desired to eliminate, and it was felt that in view of impending legislation it would be the most desirable thing from the Department's viewpoint to postpone additional loss classifications until some future time when the possibility of using a portion of the Group's capital structure can be determined.

Do you recall that comment or criticism?

Mr. LEYBURN. Yes; at and various times that was brought up, that they expected to be able to clean up the banks through the branch banking bill that they hoped would go through.

Mr. PECORA. Between November 9, 1932, which was the date as of which this examination was made, and February 13, I think it was 1933, when the bank holiday was declared by the Governor of Michigan, had the condition of this bank improved, so far as you know?

Mr. LEYBURN. Between the meeting on December 9 and the time of the bank holiday?

Mr. PECORA. Yes.

Mr. LEYBURN. No; it had not improved; it had gotten worse. And that is true of a lot of other banks. As a matter of fact, in that period I do not believe any bank in the United States had improved any.

Mr. PECORA. You referred before to the fact that in this report of the examination of this bank made as of November 9, 1932, a loss of \$456,942 was indicated. Is that the loss that you referred to in this report under the caption of "General remarks", as being merely nominal as compared with the very questionable assets that it was desired to eliminate?

Mr. LEYBURN. Yes, sir.

Mr. PECORA. A nominal figure?

Mr. LEYBURN. That is correct; just the loss on defaulted bonds.

Mr. PECORA. It did not represent your opinion or the field examiner's opinion of the actual losses?

Mr. LEYBURN. No, sir.

Mr. PECORA. The actual losses considerably exceeded this sum of four hundred fifty-six thousand and odd dollars?

Mr. LEYBURN. Yes, sir.

Senator COUZENS. When this report was made to the directors were the items enumerated that made up the aggregate of some 25 million, as I remember the total of the slow and some 18 millions of doubtful?

Mr. LEYBURN. I do not believe all of the items were read over to them. Some of them undoubtedly were, some of the big items; but when the report of the examination comes back, they are stated in detail.

Senator COUZENS. So there would be available detailed itemization of the classifications made with respect to slow and doubtful assets?

Mr. LEYBURN. Yes, sir; at all times, in every examination.

The CHAIRMAN. Was anything done as a result of this to help the situation of the banks?

Mr. LEYBURN. You are referring to the December meeting?

The CHAIRMAN. Yes.

Mr. LEYBURN. Well, of course, the banking holiday followed that shortly afterward. I cannot say that there was, Senator.

Mr. PECORA. The bank holiday followed about 2 months afterwards?

Mr. LEYBURN. Yes.

Mr. PECORA. Do you know of anything done in that intervening period of 2 months to correct the conditions that you had brought to the attention of this committee of the bank or the bank's board?

MR. LEYBURN. No, sir; I do not know of anything except when they had a meeting there in January, when they approached the R.F.C.

MR. PECORA. I have no further questions to ask you. Is there anything that you want to volunteer?

MR. LEYBURN. Yes, sir. You asked me, when I was on the stand on Friday, if the impairment of the capital of the National Bank at Niles, Mich., had been made good. Do you recall that?

MR. PECORA. Yes.

MR. LEYBURN. I checked that, and found that it was not made good. As a matter of fact, the classification on the last examination of that bank showed a surplus fund of \$100,000, profits or reserve of \$24,000, which makes a total of \$124,000, and the bond depreciation alone was \$231,000.

Then you asked me about Ionia.

MR. PECORA. About the National Bank of Ionia?

MR. LEYBURN. Yes, sir. Since that time I have got the report of examination on it. You asked me as to the classifications. The examination of December 21, 1931, shows that at that time the bank was borrowing \$76,000, and the classification is, loss, \$169,000; doubtful, \$176,000; slow \$556,000, against surplus and profits of \$174,000. The directors were borrowing direct \$115,000; indirect, \$60,000, besides loans to other corporations. At that time President Green, who is ex-Governor of Michigan, was endorsing \$34,430—a guarantor, in other words. Then we have, under large loans of credit, which means loans to one interest or affiliated interest of the Ypsilanti Reed Furniture Co. in which he was a heavy stockholder—they had a bank credit of \$25,000. The indirect paper of ex-Governor Green was \$36,430, and the loan to Director Chapman, \$22,000. That is in there because he is also a director of the Ypsilanti Reed Furniture Co. Then the loans of collateral for the stock bring the total up to \$158,000.

At that meeting the governor was present and went over the papers as to the classification. It was also very significant—I want to call your attention to this—that at that meeting when the classification was discussed the group's own examiner, Mr. Penningrath, sat in that meeting, and the examiner said in principle he agreed with the examination. And based on that report of the examination the Comptroller addressed a letter to the bank in February 1932 setting out the condition of it to them.

The next examination was June 29, 1932. At that time the bank was borrowing 182,000 and the loans to Director Green were indirectly increased to 43,000. Classification at that time showed 77,000 loss, 110 doubtful, 490 slow.

SENATOR COUZENS. What was the capital and surplus at that time?

MR. LEYBURN. The capital of the bank was 150,000 surplus 100,000, undivided profits 38,000 reserve accounts 15,000.

Governor Green also sat in on the discussion at that time. And in the letter from the comptroller based on the report of examination among other things, it speaks of the large account and says:

President Green apparently gave little consideration to depositors whose funds have been loaned out to such an extent to himself and his interests, the total of these loans exceeding the amount the bank is borrowing from all sources.

And this bank always had considerable public money deposits in it. Then we come along to the last examination.

Senator ADAMS. Were the public moneys secured by deposits of collateral in those banks, or were they simply carried as ordinary deposit accounts, or did they have surety bonds?

Mr. LEYBURN. Most of them had surety bonds up in that State. In most States they have to pledge the bank's own assets.

Mr. PECORA. Mr. Leyburn, do you know whether the so-called "surety bonds" that were furnished by some of these unit banks to secure deposits of public funds were surety bonds that were executed by the group itself rather than by some outside corporation or agency?

Mr. LEYBURN. I am of the opinion that they guaranteed some of those themselves, but I am not sure of that. And they did have some surety bonds also.

The last examination of the National Bank of Ionia was made on the 25th of November.

Senator ADAMS (interposing). If I may interrupt——

Mr. LEYBURN. Yes.

Senator ADAMS. In the term "surety bonds" the word "surety" is not entirely accurate in these days, is it?

Mr. LEYBURN. When I use the term "surety" I mean like the National Surety.

Senator ADAMS. I am still saying that the term "surety" is an exaggeration, isn't it, in connection with the bonds written by some so-called "surety companies"?

Mr. LEYBURN. Some companies; yes.

Mr. PECORA. May I say, Senator Adams, in connection with some evidence which I shall present to the committee that the group corporation itself executed so-called "surety bonds" for its own banks.

Senator ADAMS. "Insecurity" bonds.

Mr. LEYBURN. The last examination of the National Bank of Ionia was made on the 25th of November. At that time they had borrowed money, \$175,000.

Senator COUZENS. What year?

Mr. LEYBURN. 1932—they had there for liquidity——

Senator COUZENS (interposing). When those examinations were made, just to get the record clear, Mr. Green was not Governor, was he?

Mr. LEYBURN. Not when these were made; no, sir.

Senator COUZENS. No.

Mr. LEYBURN. Now Mr. Green was present. After this examination Mr. Patterson of the group discussed things with the Comptroller of the Currency. He figured he would go down to Washington and discuss some of these reports with the Comptroller's office.

Classification at that time showed 32,000 loss, 141 doubtful, 461 slow.

Then there is considerable criticism like along the other lines about "too much borrowed". And they had public money at that time of 294,000.

Senator COUZENS. Did your examinations show whether those deposits were secured?

Mr. LEYBURN. It does not show that they are secured by collateral on here, Senator.

Senator COUZENS. Does it show that it was secured in any other way.

Mr. LEYBURN. No; it does not. Wait a minute; maybe I can tell here in a minute from the bond account. There is some of it here secured by bonds; that is, the bank's bonds. I see several of them in here. "Secured state funds and postal savings."

Senator COUZENS. By what bonds?

Mr. LEYBURN. By some of the bank's listed bonds.

Senator COUZENS. I did not get the answer.

Mr. LEYBURN. By some of the bank's listed bonds.

Senator COSTIGAN. In what year or years was Mr. Green governor of Michigan?

Mr. LEYBURN. I believe he was governor in 1929 and maybe ran over into 1930. I am not certain.

Senator COSTIGAN. Was he a banker prior to becoming governor?

Mr. LEYBURN. This was his bank; yes, sir.

Senator ADAMS. That is debatable, Senator Costigan.

Mr. LEYBURN. He owned and dominated this bank.

Now, I noticed when I mentioned Friday in the testimony that he used the bank to an unwarranted extent, which is just a matter of record—why, I never met Governor Green personally; I only go by the record—that he comes out and states in a political statement—

Mr. PECORA. As of what time did he make this statement that you are now going to refer to?

Mr. LEYBURN. January 5.

Mr. PECORA. Of this year?

Mr. LEYBURN. Yes, sir.

Mr. PECORA. You mean last week?

Mr. LEYBURN. He made it either Friday or Saturday of last week.

Mr. PECORA. All right.

Senator COUZENS. Just a moment. That is a newspaper statement, is it not?

Mr. LEYBURN. No; it is quotation. It is a quotation.

Senator COUZENS. Yes; but we have excluded that sort of testimony heretofore.

Mr. LEYBURN. Well, it is all right for me to say just what—it brings out a point here I would like to put across.

Senator COUZENS. We have refused to let newspaper articles be read into the record heretofore. I think Mr. Chairman, we ought to adhere to that.

The CHAIRMAN. I think that is right. The quotation may be right and it may not. It is not the best evidence.

Mr. LEYBURN. The point is that this was a bad bank and he was a director and it was always his bank and it was bad.

Senator COUZENS. You have the records there of the Comptroller's office and you do not need to refer to newspaper statements.

Mr. LEYBURN. I know I do not.

Mr. PECORA. Mr. Leyburn, last Friday in the course of your testimony I read into this record the letter which you addressed to the Comptroller of the Currency under date of May 21, 1931, accompanying the report of the examination of the National Bank of Ionia, which was completed on May 12, 1931. In the concluding paragraph of that letter you said:

I expect to hold a conference in Detroit with the Guardian Detroit Union Group concerning several of their banks within the next few weeks, and this case will be reviewed with them.

Do you recall now whether or not you had such a conference in Detroit with the officers or directors of the group at which was discussed the condition shown by the examination of the Ionia bank?

Mr. LEYBURN. Discussed that with some of the officers a number of times, and also this: Sometimes Mr. Patterson would come down to Chicago and we discussed it, and then he also discussed it with the Comptroller's office in Washington.

Mr. PECORA. What position did the officers of the group take with regard to the criticisms, suggestions or comments that you made to them concerning the Ionia Bank?

Mr. LEYBURN. They never wanted to charge out anything, which was the policy in the group, and finally they put some of their own men in there to try to straighten it out.

Mr. PECORA. Do you know which one of their men they put in there?

Mr. LEYBURN. They had Mr. Penningrath there for several months, and then Mr. Bryant for a couple of weeks.

Senator COUZENS. Both formerly bank examiners?

Mr. LEYBURN. Yes, sir. But they were working for the group when they went in there.

Senator COUZENS. I understand.

Mr. PECORA. I think that is all of Mr. Leyburn.

The CHAIRMAN. Do you know the date of this moratorium based on the proclamation of the Governor, the holiday?

Mr. LEYBURN. You mean the Governor's holiday of Michigan?

The CHAIRMAN. Yes.

Mr. LEYBURN. That was declared the early morning of the 14th. The meeting went into session on the 13th.

Mr. PECORA. That is February 14, 1933?

Mr. LEYBURN. Yes, sir; the holiday.

The CHAIRMAN. The bankers of Detroit were all in favor of that, were they not? They urged the Governor to do this, did they not?

Mr. LEYBURN. Absolutely. And while we are on that subject I would just like to bring out something.

The CHAIRMAN. What is that?

Mr. LEYBURN. I would like to make a statement in regard to that.

The CHAIRMAN. Very well.

Mr. LEYBURN. In other words, the question will undoubtedly arise in your mind as to why Michigan happened to have the holiday. I will tell you. Michigan just beat some other State to the draw; that was all. I will give it to you this way and you can draw your own conclusions:

The Guardian Trust Co. of Cleveland, Ohio, on the 31st of December 1932 was borrowing \$18,000,000 on deposits of 109, and they had practically all of their assets pledged. The R.F.C. had poured considerable money in there, and they had just about reached their borrowing limit, and after the banking holiday the cash on hand was \$1,732,000 against deposits of \$76,000,000, and bills payable of \$19,385,000.

Since that time, with the aid of the R.F.C., that bank has paid out 20 percent.

Now, you compare that with the banks in Detroit and you can readily see that this thing was just ready to blow in your face. I was afraid it was going to blow while I was up there in Detroit on this other deal.

Then we go to the Union Trust Co. of Cleveland, with deposits of 194 million on the 31st of December 1932, bills payable 15 million 878 thousand, cash 35 million. In addition to borrowing that 15 million they had borrowed through an affiliated mortgage company about 21 million. They had just about exhausted their borrowing power. After the banking holiday that bank, with the aid of the R.F.C., paid out 35 percent.

The Guardian Trust Co. could not have stayed open at all, because when the banking holiday was declared and the banks were authorized to make disbursements some of them made 5 percent and 10 percent, but the Guardian Trust Co. of Cleveland made a disbursement of 1 percent. It is the smallest amount I ever heard of such a large bank making.

Then we come over to Indiana. In the northern part of the State was the old National Bank of Fort Wayne. They had just about exhausted their borrowing power and their closing was inevitable.

Then we come to the Fletcher-American of Indianapolis, with deposits of 25 million, of which 4 million 6 thousand was in bank accounts of small banks throughout the State. They had just about exhausted their borrowing power, and if it had closed it would have thrown the holiday in Indiana. That bank was later reorganized with the aid of the R.F.C. on a 50 percent basis. The Fort Wayne, as I recall it, was reorganized on the basis of about 50 percent or 55.

So you can readily see by those figures that the holiday should have been in some other State, and then that would have forced Michigan and Indiana, and then there you are all the way down the line. It would have had to come. I don't know how you are going to get out of it. For a year the banks had been trying to pay deposits of 100 cents on the dollar with 80 percent assets and 50 percent assets, which is manifestly impossible.

Senator COUZENS. Those Cleveland banks that you have just referred to are still closed?

Mr. LEYBURN. They are. They are both members of the Federal Reserve System.

Senator COUZENS. But both with State charters?

Mr. LEYBURN. Yes, sir. One of them has paid out 20 percent through the aid of the R.F.C. and through another bank, and one has paid out 35 percent with the aid of the R.F.C. through a national bank.

Mr. PECORA. Which Union Trust do you mean?

Mr. LEYBURN. The Union Trust of Cleveland and the Guardian Trust of Cleveland.

Senator ADAMS. Mr. Leyburn, the requirement of the Comptroller's Office is, is it not, that the report of the examiner of each bank shall be submitted to and considered by the directors of the bank and that the directors shall either by resolution or letter advise the Comptroller that they have studied and read the report?

Mr. LEYBURN. No; it is not exactly that way. When we send the copy back to the bank we send a slip along with it to be signed by the

cashier that he has received the report and it will be submitted to the board of directors.

Senator ADAMS. But isn't there, as a matter of custom, a resolution adopted by the board of directors following that out showing that the report has been submitted to the directors?

Mr. LEYBURN. The regulation of the Comptroller is that it should be read and so noted on the minutes that they have received the report. I would like to see, though, a signed statement that they saw the report. It would have been a good thing. But often they claim they never saw the report and knew nothing about the bank.

The CHAIRMAN. The conclusion you draw is that the declaration of the holiday did not cause the closing of these banks but they would have closed if it had not been for that?

Mr. LEYBURN. That is absolutely correct.

The CHAIRMAN. Then the action by the Comptroller, the Federal authorities, did not hasten the closing of these banks?

Mr. LEYBURN. No, sir.

Senator COUZENS. The reverse was the fact, was it not?

Mr. LEYBURN. That would be a matter of opinion.

Mr. PECORA. Thank you, Mr. Leyburn.

The CHAIRMAN. You are excused, Mr. Leyburn. Mr. Ford.

TESTIMONY OF EDSel B. FORD, PRESIDENT FORD MOTOR CO., DEARBORN, MICH.

The CHAIRMAN. Do you solemnly swear that you will tell the truth, the whole truth, and nothing but the truth, regarding the matters now under investigation by this committee. So help you God?

Mr. FORD. I do.

Mr. PECORA. Mr. Ford, will you give your full name, address, and business or occupation to the reporter.

Mr. FORD. Edsel Brant Ford; Ford Motor Co., Dearborn, Mich.

Senator COUZENS. You are president of the Ford Motor Co.?

Mr. FORD. President of the Ford Motor Co.

Mr. PECORA. Mr. Ford, were you an officer or director of the corporation called the Guardian Detroit Union Group, Inc.?

Mr. FORD. I was a director.

Mr. PECORA. Were you a director of that corporation from its inception?

Mr. FORD. I believe so; yes, sir.

Mr. PECORA. As a director, were you also a member of the standing committees of the board of directors of that group?

Mr. FORD. I do not think so. I cannot recall.

Senator COUZENS. Were you a director of any of the units?

Mr. FORD. Oh! The units? Yes. I beg your pardon.

Senator COUZENS. He did not ask that. I am asking that.

Mr. FORD. Yes.

Senator COUZENS. What units?

Mr. FORD. The Guardian National Bank of Commerce.

Senator COUZENS. Is that the only one?

Mr. FORD. And the Trust Co.

Senator COUZENS. The Union Guardian Trust Co.?

Mr. FORD. The Union Guardian Trust Co.

Mr. PECORA. Were you also a director of the Guardian Detroit Bank, one of the units?

Mr. FORD. Yes.

Mr. PECORA. Also the Guardian Trust Co.?

Mr. FORD. The Union Guardian Trust Co.

Mr. PECORA. And of the National Bank of Commerce before it consolidated?

Mr. FORD. Formerly.

Senator COUZENS. But not at the time of consolidation.

Mr. FORD. Oh, yes.

Senator COUZENS. Of the National Bank of Commerce?

Mr. FORD. When the National Bank of Commerce was consolidated with the Guardian Detroit Bank, I was a director of the National Bank of Commerce.

Mr. PECORA. That is what I asked you, if you were a director of the National Bank of Commerce before its consolidation with the Guardian Detroit Bank.

Mr. FORD. Yes, sir.

Mr. PECORA. According to Committee's Exhibit No. 36 of December 20, last, which consists of a copy of the annual report for the year 1930, issued by the group to the stockholders, you were a member of the advisory committee of the board of directors of the group that year. Do you recall that?

Mr. FORD. I think so.

Mr. PECORA. You also were a member of the advisory committee of the board of directors of the group for the year 1931.

Mr. FORD. That must be so.

Mr. PECORA. You have no recollection of it?

Mr. FORD. Yes, vaguely.

Mr. PECORA. What were the duties of the advisory committee of the board of directors of the group?

Mr. FORD. To advise with the officers.

Mr. PECORA. Is that the answer, to advise with the officers?

Mr. FORD. I would think so.

Mr. PECORA. Did the advisory committee frequently advise with the officers of the group?

Mr. FORD. I could not say. I cannot remember.

Mr. PECORA. Were you a regular attendant at meetings of the advisory committee of the board of directors of the group.

Mr. FORD. Perhaps not. I do not recall.

Mr. PECORA. Were you a regular attendant at the meetings of the board of directors of the group?

Mr. FORD. Not very regular.

Mr. PECORA. Do you recall—

Senator COUZENS. I think we had better have Mr. Colombo on the record here. If Mr. Colombo desires to speak to the witness during his presence on the stand we ought to make a record of it.

Will you please tell the committee, Mr. Colombo, your name, and whether you are attorney for Mr. Ford?

Mr. COLUMBO. Louis J. Columbo; attorney for Mr. Edsel Ford.

Mr. PECORA. Do you recall any conferences that you, as a member of the advisory committee of the board of directors of the group, had with other members of that committee with the officers of the group?

Mr. FORD. I do not recall any specifically. I advised with the officers of the bank at various times, but I do not recall anything specific.

Mr. PECORA. I do not mean officers of the bank. I mean the officers of the group.

Mr. FORD. I do not recall any specifically.

Mr. PECORA. Do you recall any such conferences generally that you had as a member of the advisory committee of the board, with the officers of the group?

Mr. FORD. No, sir.

Mr. PECORA. I think, during the course of his testimony last week before this committee, Mr. Kanzler, whom you doubtless know, included you as one of the founders of the Guardian Detroit Union Group. You do not quarrel with that designation of you as one of the founders of this group, do you?

Mr. FORD. No, sir.

Mr. PECORA. Now, the company of which you are president, the Ford Motor Co., was a large depositor in some of the unit banks of this group, was it not?

Mr. FORD. That is right.

Mr. PECORA. Do you remember in which of the group's banks the largest deposits were maintained by the Ford Motor Co.?

Mr. FORD. In the Guardian National Bank of Commerce and the Union Guardian Trust Co. of Detroit.

Mr. PECORA. They were both in Detroit?

Mr. FORD. Yes, sir.

Mr. PECORA. Could you tell the committee the average balances carried by the Ford Motor Co. in each one of those banks?

Mr. FORD. I cannot. I can tell you that balances at the time of the closing.

Mr. PECORA. What were they? By the closing, you mean the closing in pursuance of the Governor's decree?

Mr. FORD. The Governor's proclamation.

Mr. PECORA. On February 14, last.

Mr. FORD. Yes. There was \$32,500,000 in the various units of the Guardian group.

Mr. PECORA. What was the largest amount on deposit in any one of the group bank units at the time of the closing?

Mr. FORD. Approximately \$15,000,000 in the Guardian National Bank of Commerce.

Mr. PECORA. Do you recall, at any time during the years 1930, 1931 or 1932, your having participated in any conferences or discussions as a director of the group, with respect to the condition, financial and otherwise, of the group and its various units?

Mr. FORD. I cannot remember any specific instances, but naturally we would—

Mr. PECORA. Naturally you what?

Mr. FORD. We were discussing the conditions as we went along.

Mr. PECORA. Without reference to any specific discussion of that kind, will you tell the committee about how many such discussions you participated in?

Mr. FORD. I cannot recall.

Mr. PECORA. Can you tell us approximately?

Mr. FORD. No; I have no idea.

Mr. PECORA. Were they few or were they many?

Mr. FORD. Probably few.

Mr. PECORA. Were there more than one or two a year that you attended?

Mr. FORD. I could not say.

Mr. PECORA. Well, do you recall the general course of the discussions that were had at those few conferences that you attended, at which the condition of the group and its units was discussed?

Mr. FORD. No, sir; I do not.

Mr. PECORA. Why are you unable to tell us that, Mr. Ford?

Mr. FORD. Because I do not remember.

Mr. PECORA. Do you recall questions arising at meetings of the board of directors of the group attended by you, with respect to the financial condition of the group?

Mr. FORD. There were discussions of the financial condition at the meetings that I attended.

Mr. PECORA. What was the general tenor of those discussions?

Mr. FORD. That the banking situation was very tense and getting worse, and conditions were arising each day that needed careful handling and watching, and conditions of the country at that time were going from bad to worse. The assets and securities that the banks held were naturally depreciating. It was a question of coping with the situation as it changed from day to day.

Mr. PECORA. Do you recall, Mr. Ford, how you coped with the situation as it changed, and gradually got worse from day to day?

Mr. FORD. I do not know what you mean by that, Mr. Pecora.

Mr. PECORA. You just said that at these conferences in which you participated, in which the condition of the group and its units was discussed, it was remarked that conditions were getting worse, that securities held by the unit banks, either in their portfolios or as collateral against loans, were depreciating in value, and the group was endeavoring to cope with the situation. What steps, if any, do you recall were taken by the group in coping with that situation to which you have alluded?

Mr. FORD. In the first place, the group responsibility was to scrutinize each one of the unit banks, each one of the units in the bank, and counsel with their officers, and try to carry on a course of operations in the most successful manner possible.

Mr. PECORA. What methods, what steps were taken, what policies were adopted to carry on in the face of these conditions that were steadily growing worse?

Senator COUZENS. Let us make that more specific, Mr. Ford. Did you at any time, or any of your associates, go to the relief of any of these units?

Mr. FORD. I did, sir.

Senator COUZENS. That would be a very pertinent answer, I think, to Mr. Pecora's question. Just what did you do in that connection?

Mr. PECORA. You see, that relates to a specific time. I wanted to get first from the witness, if he could tell us, the general line of action that the group adopted in order to meet these conditions that were steadily growing worse—not anything that he individually did, but what he, as a director and as a member of the advisory committee of the board of the group, did; and what the other directors did, and what

the group generally did, as a corporation. Can you tell us anything about that, Mr. Ford?

Mr. FORD. Not specifically.

Mr. PECORA. Can you tell us generally?

Mr. FORD. The assets were criticized in the member banks. The Group Co. were assisting the member banks in loans.

Mr. PECORA. The Group Co. had to borrow money for that purpose, did it not? It has been testified to here by Mr. Lord that in the years 1929, 1930, 1931, and 1932 the group received from its various unit banks sums exceeding 9 million dollars in the form of dividends paid by the banks. He also claimed that about \$8,400,000 was put back in the unit banks by the group. Are you familiar with those facts?

Mr. FORD. Not the figures.

Mr. PECORA. Do you know that of that \$8,400,000-odd that was put back into the unit banks, over 7½ million went to one bank alone, namely, the Union Guardian Trust Co.? Do you know that?

Mr. FORD. I do not know it specifically, but I assume it is right.

Mr. PECORA. Do you assume it is right because I am telling you that, or do you assume it because of personal knowledge you have of the fact?

Mr. FORD. I know there was money put back into the Union Guardian Trust Co., but I do not know the actual amount that was put there. I do not recall it.

Mr. PECORA. Do you know how the group obtained the money that it put back into any of the unit banks to help them out?

Mr. FORD. By dividends and by borrowing.

Mr. PECORA. That is, the group declared dividends in favor of those banks?

Mr. FORD. Didn't the group receive dividends from those banks?

Mr. PECORA. From the banks, yes.

Mr. FORD. From the member banks.

Mr. PECORA. Yes. From what sources did the group derive the money that they put back, as has been claimed here, into some of these unit banks? Do you know?

Mr. FORD. I just stated that they got it from dividends from other member banks and from borrowing.

Mr. PECORA. How much of it did they raise by borrowing?

Mr. FORD. I do not know the total figure. About 16 million dollars is the figure I have in mind, but I am not positive.

Mr. PECORA. But they put back only 8 million dollars.

Mr. FORD. I do not know about that.

Mr. PECORA. Did you ever read any annual report issued by the group to its stockholders?

Mr. FORD. Undoubtedly.

Mr. PECORA. Did you ever attend meetings of the board of directors of the group at which there were presented to the board statements concerning the conditions of various unit banks in the group?

Mr. FORD. The statements of each unit bank?

Mr. PECORA. Yes.

Mr. FORD. I do not recall. I probably did, but I do not remember.

Mr. PECORA. Who determined the dividend policy of the group, Mr. Ford?

Mr. FORD. The officers of the group made suggestions to the directors, I suppose.

Mr. PECORA. Can you not give us something more than supposition? Can you not tell us what the facts were?

Mr. FORD. It is a pretty general question.

Mr. PECORA. Mr. Ford, you were not only a member of the board of directors, but also a member of the advisory committee of the board of directors, the functions of which, you said, were to advise with the officers of the group—I presume with regard to the conduct, management, and operation of the group and its unit banks. Is that correct?

Mr. FORD. Yes, sir.

Mr. PECORA. As such, can you not tell this committee what was done, and by whom it was done, in connection with the adoption of a dividend-paying policy both by the group and its various unit banks?

Mr. FORD. The policy was outlined, of course, by the officers.

Mr. PECORA. What was that policy?

Mr. FORD. When do you mean?

Mr. PECORA. What is that?

Mr. FORD. At what time, sir?

Mr. PECORA. Whenever they adopted it.

Mr. FORD. The dividend policy would change from time to time.

Mr. PECORA. Who changed it? What was the original dividend policy adopted? Can you tell us that?

Mr. FORD. No, sir; I cannot.

Mr. PECORA. Can you tell us when any change was made?

Mr. FORD. I know there was a change made when dividends were cut out, but I cannot recall exactly when it was.

Mr. PECORA. Who was responsible for that change?

Mr. FORD. I do not recall. One of the officers undoubtedly, but I do not recall who.

The CHAIRMAN. How was this \$32,500,000 distributed to your units, Mr. Ford?

Mr. FORD. How was it distributed by units?

The CHAIRMAN. Yes.

Mr. FORD. There was \$13,000,000 in a special account of the Guardian National Bank of Commerce; \$571,000 to the Boulevard office; there was \$2,000,000 in C. of D.'s in the Guardian National Bank of Commerce; \$109,000 in the cashier's account; \$1,837,000 in the pay-roll account; \$2,500,000 in the treasurer's account of the Union Guardian Trust Co.; \$5,000,000 of C. of D.'s in the Union Guardian Trust Co.; \$3,500,000—that was a note of the Group; \$200,000 in the Grand Rapids National Bank; \$1,000,000 in the Highland Park State Bank, treasurer's account; \$250,000 in the Highland Park Trust Co.; \$25,000 in the Union Peoples National Bank of Jackson, Mich.; and \$100,000 in the Capital National of Lansing.

Mr. PECORA. Did you know, Mr. Ford, that the Group, in the years 1930, 1931, and 1932, had a deficit at the end of each of those years?

Mr. FORD. I do not remember.

Mr. PECORA. Did you ever know it?

Mr. FORD. I probably did at the time, but I do not remember it now.

Mr. PECORA. Would not that be a fact that would linger in your memory?

Mr. FORD. Not necessarily. There are losses in many other corporations.

Mr. PECORA. How large a stockholder were you of the group?

Mr. FORD. I had something over 50,000 shares at the closing, or bank holiday.

Senator COUZENS. How much did you have when the group was organized, Mr. Ford, do you remember?

Mr. FORD. Shall I give this in detail?

Senator COUZENS. Please.

Mr. FORD. I started out with 125 shares of the National Bank stock. That was converted into 125 shares of the Union Commerce Investment Corporation. I purchased 45 shares, exercising rights, making a total of 170 shares. I received 850 shares of the Union Commerce Corporation in exchange for the 170 shares. That was converted into 850 shares of the Guardian Detroit Union Group, in exchange for the 850 shares of the Union Commerce Corporation.

I started out with 250 shares of Guardian Trust Co. That was converted into 250 units of the Guardian Detroit Bank. I purchased 4,000 units, which made a total of 4,250. I received 21,250 shares of Guardian Detroit Group, Inc., in exchange for the 4,250 shares.

Senator COUZENS. That was all you got for the exchange? There was no cash?

Mr. FORD. No cash; 21,250 shares. I may have. I do not know. Was there cash distributed?

Senator COUZENS. I do not recall.

Mr. FORD. I do not recall either. There were 2,125 shares purchased through the exercising of rights, making a total of 23,375. Then there was a 20 percent stock dividend, 4,675 shares, making a total of 28,050 shares. I had 2,688 shares in the Bank of Detroit, which was converted; 84 shares in the Fordson State Bank; 1,188 shares in the Highland Park State Bank; 850 shares in the National Bank of Commerce; 7,054 shares of the Union Commerce Corporation; 100 shares of the Bank of Commerce of Spring Wells. I do not have that total.

Senator COUZENS. Was that all later converted into the Guardian?

Mr. FORD. Those shares were all converted into Guardian Detroit Union Group shares.

Senator COUZENS. After that conversion took place, what were your aggregate holdings in the Guardian Detroit Union Group, Inc.?

Mr. FORD. I made some purchases after that.

Senator COUZENS. Before you made the purchases?

Mr. FORD. I do not have them totaled, but it would be approximately 39,000 or 40,000 shares.

Senator COUZENS. After you had made all those conversions you had 39,000 or 40,000 shares, and the difference between that amount and some 50,000 or 55,000 which you owned at the time of the closing was represented by purchases, is that correct?

Mr. FORD. Except for a gift of 1,188 shares from Mr. Henry Ford at one time.

Mr. PECORA. According to an examination of the minute book of the board of directors of the group for the year 1932, which I have caused to be made, your name nowhere is recited as having attended any of the meetings of the board of directors held in that year. Is that in accordance with your recollection of the fact?

Mr. FORD. It must be so. I do not recall.

Mr. PECORA. At the meeting of the board of directors of the group held on March 12, 1931, the following motion appears to have been made, seconded, and unanimously carried. I will read the entry from the minutes of that meeting [reading]:

Advisory committee. On motion duly made, seconded, and unanimously carried, the advisory committee was asked to look into the status, policies, and investments of all security company affiliates of the Guardian Detroit Union Group, Inc., and report back to this board.

Do you recall, as a member of the advisory committee of the board of directors of the group, acting in response to that motion?

Mr. FORD. I do not recall.

Mr. PECORA. Do you recall ever making any examination, as a member of the advisory committee of the board, into the status, policies, and investments of the security company affiliates of the group?

Mr. FORD. I do not remember having done so.

Mr. PECORA. Would that indicate that you made no such examination and took no part in any such examination?

Mr. FORD. I may not, or may have. It may indicate that or may not.

Mr. PECORA. You say you do not recall having made any such examination.

Mr. FORD. No, sir.

Mr. PECORA. Do you recall having participated in the making of any report to the board of directors of the group?

Mr. FORD. No, sir.

Mr. PECORA. On the status, policies, and investments of the investment company affiliates of the group?

Mr. FORD. No, sir; I do not recall.

Mr. PECORA. Would that indicate that you did not participate in the making of any such report?

Mr. FORD. I may have.

Mr. PECORA. If you did, you do not recall it?

Mr. FORD. No, sir.

Mr. PECORA. Do you consider that during the years that you were a director of the group, you were active in the discharge of your duties as such director?

Mr. FORD. I was in close contact with the members of the operating organization, Mr. Longley, Mr. Kanzler, Mr. Lord, and Dr. Murphy.

Mr. PECORA. Were you active in the discharge of your duties as a director, in your own opinion?

Mr. FORD. I thought I was. I was counseling with those men on the policies of the bank.

Mr. PECORA. How much counseling did you do?

Mr. FORD. I do not remember, but there were many times when various matters were discussed.

Mr. PECORA. Do you remember any special policy that you ever advocated for the group to follow?

Mr. FORD. I do not recall advocating any policy.

Mr. PECORA. Were you present at any meeting of the board, or the advisory committee of the board, at which there was brought up the discussion and consideration of any protest by the officers of any of the unit banks with respect to declaring a dividend, at the rate suggested by the group to such banks?

Mr. FORD. A protest by the various members?

Mr. PECORA. By officers.

Mr. FORD. By officers of some of the units?

Mr. PECORA. Yes.

Mr. FORD. No, sir; I don't remember it.

Mr. PECORA. Now, Mr. Ford, Senator Couzens a few minutes ago asked you to tell specifically what, if anything, you did with regard to any relief measures taken by the group on behalf of the group at any time during its life. Will you answer that question now?

Mr. FORD. I loaned them some money.

Mr. PECORA. Do you recall when?

Mr. FORD (looks through some papers).

Mr. PECORA. If you are ready you may go ahead.

Mr. FORD. I loaned them \$5,000,000 in municipal bonds and \$1,000,000 in cash. And that receipt is dated December 11, 1930.

Mr. PECORA. That is when you loaned \$1,000,000 in cash?

Mr. FORD. Yes, sir.

Mr. PECORA. Now, you loaned that money to the Guardian Detroit Co., didn't you, one of the securities affiliates of the group?

Mr. FORD. Yes, sir.

Mr. PECORA. You did not loan it to the group itself?

Mr. FORD. I beg pardon, but it was to the Guardian Detroit Co.

Mr. PECORA. Do you know the occasion for the company getting that loan?

Mr. FORD. Do you mean the reason for it?

Mr. PECORA. Yes.

Mr. FORD. Well, as I understood it the Guardian Detroit Co. had borrowings in various other banks, outside banks, on which collateral was posted. This was at the time when collateral values had shrunk materially, and as I understood it the collateral was insufficient for the loans that were outstanding at that time. Officers of one of the units of the Group, I think it was, came to me and asked for this loan which I made in order that they could rectify the loans that had been made outside.

Mr. PECORA. That is, the Guardian Detroit Co. was indebted to interests outside of the Group?

Mr. FORD. Indebted on loans to banks outside the Group.

Mr. PECORA. Yes, and in order to enable that company to meet that indebtedness you loaned that company \$1,000,000 on December 11, 1930.

Mr. FORD. That is right.

Mr. PECORA. Has that loan been repaid?

Mr. FORD. No, sir.

Mr. PECORA. That was a 6 months' loan originally, wasn't it?

Mr. FORD. It was a 6 months' note.

Mr. PECORA. Who were the endorsers on that note, do you recall?

Mr. FORD. Guardian Detroit Union Group—well, this note may be a renewal, and this is dated in March of 1932.

Mr. PECORA. It is March 9, 1932, isn't it?

Mr. FORD. Yes.

Mr. PECORA. Now, this first loan of yours of \$1,000,000 was made in December of 1930, and that was about a year after the Guardian Detroit Union Group, Inc., was formed, wasn't it?

Mr. FORD. Yes, sir.

Mr. PECORA. And the fact that it needed money at that time and should have to borrow from you in order to enable it to meet obligations it owed to interests outside the group, of which it was a unit, and that it has not been able to pay back that loan, would be some evidence, would it not, in your opinion of the unsoundness of the company?

Mr. FORD. I wouldn't say so necessarily. It might.

Mr. PECORA. What would it indicate?

Mr. FORD. There were many other conditions at that time that were affecting the status of the company.

Mr. PECORA. Well, did you press the note for payment?

Mr. FORD. No, sir.

Mr. PECORA. Were you asked to forbear?

Mr. FORD. I do not recall. I do not think so.

Mr. PECORA. Well, did you voluntarily let it drift along?

Mr. FORD. Yes.

Mr. PECORA. Was that because you did not want it repaid, or because you did not think it could pay it back?

Mr. FORD. The reason for making that loan was to help the company, that particular company, and I did not press them to pay it back because I felt when they could pay it they would.

Mr. PECORA. Well, the fact that they did not pay it back at any time would indicate that they could not pay it back, is that a fair assumption?

Mr. FORD. Could not pay it back at that time it is true.

Mr. PECORA. At the same time that you made to the Guardian Detroit Co. this loan of \$1,000,000 in cash you also loaned them securities of a par value of \$5,000,000, didn't you?

Mr. FORD. Yes, sir.

Mr. PECORA. And what was that done for?

Mr. FORD. I understood, as I now recall, that it was for the same purpose.

Mr. PECORA. Isn't it a fact that the Guardian Detroit Co. used that 5 million dollars face value of securities that you loaned to them as collateral against a loan of 4½ million dollars that that bank negotiated or obtained from the Bankers Trust Co. of New York?

Mr. FORD. I believe that is right.

Mr. PECORA. Did you get those securities back?

Mr. FORD. I beg your pardon?

Mr. PECORA. I say, did you get those securities back?

Mr. FORD. Well, actually I did get them back; yes. The Ford Motor Co. paid off that loan and the securities were returned, and then I satisfied the Ford Motor Co. later on, or, in other words, I repaid the Ford Motor Co.

Mr. PECORA. You got them back through the medium of some one other than the borrower?

Mr. FORD. Yes, sir.

Mr. PECORA. That is, the Guardian Detroit Co. not paying the loan for which they put up that collateral as security with the Bankers Trust Co. of New York?

Mr. FORD. Yes, sir.

Mr. PECORA. Do you know the purpose for which the Guardian Detroit Co. required that loan of 4½ million dollars in December of 1930?

Mr. FORD. Well, I thought it was for the same purpose that they borrowed the 1 million dollars in cash.

Mr. PECORA. Do you recall what the condition was of the Guardian Detroit Co. at that time? I am referring now to December of 1930.

Mr. FORD. That was very shortly after the first market crash. Their portfolio consisted of securities that had depreciated very greatly and they had heavy borrowings.

Mr. PECORA. Do you know—

Senator COUZENS (interposing). Mr. Pecora, before you go further into that let me ask Mr. Ford: You said they had heavy borrowings. What were those borrowings for?

Mr. FORD. I suppose to buy securities.

Senator COUZENS. That is, for the Guardian Detroit Co. to buy securities?

Mr. FORD. That was a securities company, you know.

Senator COUZENS. Well, you say they borrowed money from you in the first instance to buy securities?

Mr. FORD. No. They borrowed money from me to satisfy some loans outstanding and on which securities they owned had depreciated.

Senator COUZENS. In other words, they borrowed in the first instance money with which to buy securities, which securities afterwards depreciated, is that it?

Mr. FORD. They had loans. I do not know whether they altogether bought securities for which they borrowed money. I really could not say about that.

Senator COUZENS. They would not have any other purpose for borrowing money, except to buy securities, would they?

Mr. FORD. I could not say. I wouldn't think so.

Mr. PECORA. Mr. Ford, have you the receipt given to you by the Guardian Detroit Co. for this \$5,000,000 face value of bonds that you loaned to it in December of 1930?

Mr. FORD. Yes, sir.

Mr. PECORA. I show you what purports to be a photostatic reproduction of such receipt. Will you please look at it and tell me if you recognize it to be a true and correct copy thereof? It is the top document in that file of papers I am handing over to you.

Mr. FORD (after having his attorney, Mr. Columbo, read the photostatic copy, while the witness held his own paper). That is correct.

Mr. PECORA. I offer it in evidence, Mr. Chairman.

Senator COUZENS. Let it be received.

(A receipt dated Dec. 11, 1930, from the Guardian Detroit Co. for 5 million dollars of securities loaned by Mr. Ford, was marked "Committee Exhibit No. 69, Jan. 11, 1934", and will be found immediately following where read by Mr. Pecora.)

MR. PECORA. The document received as committee Exhibit No. 69 of this date, reads as follows:

Guardian Detroit Company acknowledges receipt from Edsel B. Ford of municipal bonds of the par value of (\$5,000,000) as listed and described in the attached photostatic copies of safe keeping receipts.

These bonds have been loaned to the undersigned GUARDIAN DETROIT COMPANY in order that that company may use the same as collateral to secure loans made or which may be made by the GUARDIAN DETROIT COMPANY and/or KEANE, HIGBIE & COMPANY. All or any part of such bonds shall be returned by the undersigned GUARDIAN DETROIT COMPANY to EDSEL B. FORD upon demand. If any of these bonds are used to secure loans of either of these Companies at banks or trust companies not in the Guardian Group, the proceeds of such loans must be used to pay or reduce loans at Guardian banks or trust companies.

It is expressly understood that all principal and interest collected on such bonds by said GUARDIAN DETROIT COMPANY shall be paid immediately upon receipt thereof, to the said EDSEL B. FORD.

GUARDIAN DETROIT COMPANY,
By ROBERT O. LORD,
Its Vice President.

Dated December 11, 1930.

Now, Mr. Ford, do you know whether or not this loan of 4½ million dollars that was procured by the Guardian Detroit Co. from the Bankers Trust Co. of New York was used by the Guardian Detroit Co. to pay or reduce loans it had in banks belonging to the group?

MR. FORD. No, sir; I do not know that.

MR. PECORA. Now, Mr. Ford, I show you what purports to be a photostatic reproduction of the note for 1 million dollars given to you under date of March 9, 1932, and which I understand was the final renewal note for the 1 million dollar loan that you made on December 11, 1930, to the Guardian Detroit Co. Will you look at it and tell me if you recognize it to be a true and correct copy of such note, together with the endorsements thereon?

MR. FORD (comparing photostat with his own paper by the aid of his attorney, Mr. Columbo). That is right.

MR. PECORA. I offer it in evidence.

SENATOR COUZENS (presiding). Let it be received.

(A note dated Mar. 9, 1932 for 1 million dollars at 6 months payable to the order of R. O. Lord, agent, by the Guardian Detroit Co. was marked "Committee Exhibit No. 70, Jan. 11, 1934", and will be found immediately following where read by Mr. Pecora.)

MR. PECORA. I will read the note, as follows:

\$1,000,000.00

DETROIT, MICHIGAN, March 9, 1932.

Six months after date we promise to pay to R. O. Lord, agent, or order, one million dollars at GUARDIAN NATIONAL BANK OF COMMERCE. Value received with 5 percent interest per annum payable monthly.

GUARDIAN DETROIT COMPANY
By F. W. PRITCHARD *Treasurer.*

Countersigned by R. C. Huelsman.

And the endorsements thereon are as follows:

GUARDIAN DETROIT UNION GROUP, INC.
By B. K. PATTERSON, *Treasurer.*
By C. H. HABERKORN, *Secretary.*
R. O. LORD, *Agent.*

Now, for whom was Mr. Lord acting as agent in this transaction?

MR. FORD (after talking with his counsel, Mr. Columbo). The Guardian Detroit Group Co.

Mr. PECORA. Do you mean the Guardian Detroit Union Group, Inc.?

Mr. FORD. I would think so.

Mr. PECORA. Do you know what was done by the Guardian Detroit Co. with the loan of 4½ million dollars that it obtained in December of 1930 from the Bankers Trust Co. of New York, what use was made of the proceeds of that loan?

Mr. FORD. I do not recall.

Mr. PECORA. What was that answer?

Mr. FORD. I do not recall.

Mr. PECORA. Well, do you know, or did you ever know?

Mr. FORD. I may have known, but I don't now recall. That is the loan that was obtained from—

Mr. PECORA (interposing). That was a loan obtained on the collateral that you loaned to the Guardian Detroit Co.

Mr. FORD. I am only assuming, or at least I thought they were used for satisfying loans made to the Guardian Detroit Co. by banks, on which the collateral had become reduced.

Mr. PECORA. But you don't know what was actually done with the proceeds of the loan, do you?

Mr. FORD. No; I do not.

Mr. PECORA. Now, Mr. Ford, were there occasions when requests were made of the Ford Motor Co., or of you individually, to make special and temporary deposits in any one of the unit banks of the Group, in order to—well, to make a special or temporary deposit, first?

Mr. FORD. There may have been.

Mr. PECORA. In how many instances was that done?

Mr. FORD. Oh, I have no idea.

Mr. PECORA. In many instances?

Mr. FORD. Those requests would undoubtedly go through Mr. Craig, who was assistant treasurer. I do not recall any request ever having been made directly to me, but there might have been.

Mr. PECORA. Do you know the purpose for the making of those temporary deposits?

Mr. FORD. I suppose to show increased deposits in their statements.

Mr. PECORA. That is, in the annual statements?

Mr. FORD. I am not sure.

Mr. PECORA. Do you know the largest individual special or temporary deposit of that kind made in any one of the unit banks by you or your company?

Mr. FORD. The actual amount?

Mr. PECORA. Yes.

Mr. FORD. No, sir.

Mr. PECORA. As a bank director—and you were a bank director, weren't you?

Mr. FORD. Yes, sir.

Mr. PECORA. In how many banks were you a director?

Mr. FORD. When?

Mr. PECORA. During the years 1930, 1931, and 1932.

Mr. FORD. The National Bank of Commerce until it was consolidated afterwards with the Guardian National Bank of Commerce of Detroit.

Mr. PECORA. Now, as a bank director, Mr. Ford, and as a business man, do you think it was an ethical method of enhancing the appearance, or improving the appearance of the bank's condition by making a temporary deposit and withdrawing it shortly after the first of the year?

Mr. FORD. Well——

Mr. COLUMBO. You don't know that it was done.

Mr. PECORA. Mr. Columbo, won't you let me get Mr. Ford's opinions?

Mr. COLUMBO. Well, I was trying to refresh his recollection.

Mr. PECORA. You cannot refresh the witness' recollection concerning an opinion, which was what I was calling for at the moment, can you?

Mr. COLUMBO. Yes.

Mr. PECORA. You say you can?

Mr. COLUMBO. Well, I cannot if you object to it.

Mr. PECORA. What was that?

Mr. COLUMBO. I say I won't if you don't want me to do it.

Mr. PECORA. I have no objection to your aiding the witness with any facts. But when I call for his opinions I want the witness to give me his opinions.

Mr. COLUMBO. Well, I want him given the facts on which he may base an opinion.

Mr. PECORA. The facts are already admitted, namely, that temporary deposits were made over the end of the year in order to enable unit banks to show an increase of deposits. I am asking Mr. Ford for his opinion as to whether or not, as a bank director and as a business man, he thinks that is a fair and ethical method.

Mr. FORD. Perhaps not. I do not remember the circumstances under which the requests were made.

Mr. PECORA. Haven't you already indicated that you knew what the circumstances were, namely, to enable the bank to show an increased amount of deposits at the end of the year?

Mr. FORD. That is quite possible, yes.

Mr. PECORA. And do you consider that an ethical and fair practice?

Mr. FORD. No; I don't suppose it is. I don't really know about that.

Mr. PECORA. Do you know why you did it?

Mr. FORD. No, sir.

Mr. PECORA. While I am on this subject I will depart for a moment or two from loans that you made to the group or any of the units of the group and ask you this question: Do you recall a transaction had in December of 1932 in which the Ford Motor Co. purchased from the Guaranty Trust Co. of New York, United States Treasury 1-year notes of the face amount of \$7,500,000?

Mr. FORD. The Ford Motor Co. purchased them, do you mean?

Mr. PECORA. Yes.

Mr. FORD. No, sir; I do not recall it. It is quite possible that we did, though.

Mr. PECORA. Purchased them as of December 31, 1932, and sold them on January 3, 1933.

Mr. FORD. It is quite possible, but I don't know.

Mr. PECORA. What was the reason for that transaction?

Mr. FORD. I do not remember that specific transaction, but I know the purpose for converting cash into bonds at the end of the year.

Mr. PECORA. Well, tell us what it was.

Mr. FORD. We wanted to show less cash on our annual statement which would be published in Massachusetts later on in the spring. We wanted to show more diversification of our intangible assets.

Mr. PECORA. Did you also want to avoid the payment of the tax levied under the laws of the State of Michigan on those cash assets?

Mr. FORD. There is no tax levied on them.

Mr. PECORA. Are you sure of that?

Mr. FORD. Quite sure. And I know that that had nothing to do with it, and there was no tax matter involved. Or that is my understanding of it. Am I wrong about that?

Mr. PECORA. You better ask your counsel as to that.

Mr. FORD (after inquiring of Mr. Columbo, and Mr. Columbo conferring with Mr. Longley). Well, counsel states that we have an opinion from the Attorney General of Michigan on that point, that there is no tax involved.

Mr. PECORA. What do you mean, that you have an opinion there was no tax involved?

Mr. FORD. Well, apparently we have not paid the tax.

Mr. PECORA. You did not pay a tax on the cash that you converted into bonds, into Government bonds, is that what you mean?

Mr. FORD. What would the tax be paid on?

Mr. PECORA. A personal property tax under the laws of the State of Michigan.

Mr. FORD. Yes, that is true, but it is my understanding there was no tax-saving involved in this transaction.

Senator COUZENS. In other words, the cash that you had left over after purchasing those Government bonds, was tax-exempt, is that what you mean?

Mr. COLUMBO. That is right.

Senator COUZENS. That is your understanding?

Mr. FORD. I understand that there is no tax involved in a transaction of that kind.

Senator COUZENS. I wasn't talking about the transaction.

Mr. FORD. Well, it was trying to convert cash into that type of securities.

Senator COUZENS. I understand that, but if I understand Mr. Pecora's question the implication is that you purchased those bonds for the purpose of avoiding payment of a tax on the cash you had on hand.

Mr. FORD. Well,—

Senator COUZENS (continuing). But that was not the purpose, and that was not accomplished, is that your answer?

Mr. FORD. I do not think there was any tax-saving involved.

Senator COUZENS. I think that is correct, Mr. Pecora.

Mr. COLUMBO. There is no tax on intangibles in Michigan, Mr. Pecora.

Mr. PECORA. What is the opinion from the Attorney General that you have referred to, Mr. Ford? Will you produce it now?

Mr. FORD (after consulting Mr. Columbo). I have no copy here.

Mr. PECORA. Have you been advised by your counsel that moneys belonging to the Ford Motor Co. and standing to its credit at the end of the year are not taxable under the personal property tax laws of the State of Michigan?

Mr. FORD. Yes.

Mr. PECORA. Which counsel is giving you that advice?

Mr. FORD. Mr. Columbo.

Mr. PECORA. Have you gotten similar advice from Mr. Longley?

Mr. FORD. Yes, sir.

Mr. PECORA. Well, was it the practice or custom of your company to take funds it had on deposit in any of those banks in Detroit and purchase Government bonds with them and resell those bonds a few days after the first of the ensuing year? That is, to make purchases as of the end of the tax year and resell those securities within 2 or 3 days thereafter?

Mr. FORD. That was done.

Mr. PECORA. What did you say that it was done for?

Mr. FORD. To show diversification in our annual statement which we filed with the Secretary of State of Massachusetts, so that we did not show as much cash on the annual statement.

Mr. PECORA. To what extent was that practiced?

Mr. FORD. I could not say.

Mr. PECORA. That is, how much every year, at the end of the year, was drawn out from bank deposit accounts—

Mr. FORD (interposing). I could not tell you.

Mr. PECORA (continuing). For the purchase of Government securities and a resale of those Government securities within 2 or 3 days thereafter.

Mr. FORD. I could not say. It varied from year to year I expect, but I have no idea of the amount.

Mr. PECORA. Well, now, you said you wanted to show diversification in some report that you had to file in the State of Massachusetts.

Mr. FORD. Yes, sir.

Mr. PECORA. Did you consider that cash on hand or in bank was not a good asset?

Mr. FORD. No, sir. It was just a question of not showing as much cash on hand, because they usually made a big statement in the papers about it, and we did not care about that.

Senator COUZENS. Do you recall what was the largest amount that you purchased with security bonds to effect the purpose?

Mr. FORD. I haven't any idea, Senator. Mr. Craig has all that information.

Mr. PECORA. Who is Mr. B. J. Craig?

Mr. FORD. He is the secretary and assistant treasurer of the company, Ford Motor Co.

Mr. PECORA. I show you what purports to be a photostatic reproduction of a letter addressed to Mr. Craig as Secretary of Ford Motor Co., by the Vice President and Cashier of the Guardian National Bank of Commerce of Detroit, bearing date December 22, 1932. Will you look at it and tell me if you know it to be a true and correct copy of such a letter sent to Mr. Craig, secretary of the Ford Motor Co.?

Mr. FORD (after perusing document). I don't recall ever having seen that letter, sir.

Mr. PECORA. Do you question the authenticity of this copy of the letter?

Mr. FORD. No, sir.

Mr. PECORA. I may say that we obtained it from files of the Guardian National Bank of Commerce of Detroit.

Mr. FORD. Yes.

Mr. PECORA. I offer it in evidence.

Senator COUZENS. The same will be entered in the record.

(Photostat of a letter on letterhead of Guardian National Bank of Commerce of Detroit, dated Dec. 22, 1932, from Vice President and Cashier to B. J. Craig, Secretary Ford Motor Co., Dearborn, Mich., was thereupon designated "Committee Exhibit No. 71, Jan. 11, 1934," and same appears in full immediately following, were read by Mr. Pecora.)

Mr. PECORA. The letter received in evidence as committee's exhibit no. 71 of this date reads as follows, on the letterhead of the Guardian National Bank of Commerce of Detroit [reading]:

DECEMBER 22, 1932.

Mr. B. J. CRAIG,
Secretary Ford Motor Company,
Dearborn, Michigan.

DEAR MR. CRAIG: In accordance with arrangements made with you today, we hereby confirm sale to you of \$7,500,000 par value U.S. Treasury Certificates $\frac{3}{4}\%$ of Series TD 1933 dated December 15, 1932, maturing December 15, 1933, at 100.40625 (\$7,530,468.75) plus accrued interest (\$2,472.53) and enclose confirmation showing the amount which will be due in payment.

We understand that this transaction is to be as of December 31, 1932, and further, that you authorize us to charge your Treasurer's demand account, carried on our books, on that date in the amount of \$7,532,941.28, with the further understanding that if your Treasurer's demand account does not have sufficient balance to cover this charge we may transfer from your Treasurer's savings account a sufficient amount to cover it.

We also understand that you have agreed to resell these certificates to us on January 3, 1933 at 100.40625 (\$7,530,468.75) plus accrued interest (\$2,936.10) and we enclose confirmation showing the amount (\$7,533,404.85) which will be due to you in payment thereof, and, in accordance with your instructions, we will credit to your Treasurer's demand account, on that date, with the further understanding that we will charge your Treasurer's demand account and credit your Treasurer's savings account with the same amount, if any, which we will have been required to transfer on December 31, 1932, as hereabove provided for.

As explained to you during our discussion of this matter, in Mr. Judson's office today, the Guaranty Trust Company of New York, through whom we are purchasing these securities, has requested that they be furnished a letter from the Ford Motor Company relative to our agreement to purchase from them and their agreement to sell to us on December 31, 1932, the above-mentioned bonds, said letter also consenting to and authorizing the pledging to the Guaranty Trust Company of the bonds as collateral security for the payment of the Guardian National Bank of Commerce of Detroit Cashier's check, payable to the Guaranty Trust Company, which we purchased with your funds and forwarded to them and which would not clear for payment through the Detroit branch of the Chicago Federal Reserve Bank until Tuesday, January 3rd.

A copy of the proposed letter, together with a copy of the proposed agreement, was handed to you today and we would appreciate it, very much, if you will issue such a letter direct to the Guaranty Trust Company, advising us that you have done so or, if you desire, forward the letter together with the exhibit direct to us and we will forward it to New York.

With the exception of this letter and exhibit, as requested by the Guaranty Trust Company, the mechanical operations in this transaction are identical with the method used last year in the handling of a similar matter for your company.

As we must close this arrangement in New York at the earliest possible time, we would appreciate your acknowledgement and acceptance of this program.

Very truly yours,
Signed by "E. S. Burns, Vice President and Cashier."

Now I show you what purports to be a photostatic copy of a letter addressed by Ford Motor Co., B. J. Craig, Secretary and Assistant Treasurer, to the Guaranty Trust Co. of New York, dated December 28, 1932, and apparently written in pursuance of the suggestion contained in the letter marked "Committee's Exhibit No. 71" as of this date. Will you please look at it and tell me if you recognize it to be a true and correct copy of such a letter written by your company to the Guaranty Trust Co. of New York?

Mr. FORD (after perusing letter). What was the question?

Mr. PECORA. Do you recognize that as a true and correct copy?

Mr. FORD. I have never seen that letter.

Mr. PECORA. Do you doubt the authenticity of it?

Mr. FORD. No, sir.

Mr. PECORA. I offer it in evidence.

Senator COUZENS (presiding). The same will be entered in the record.

(Photostat of copy of letter on letterhead of Ford Motor Co., dated Dec. 28, 1932, from Ford Motor Co. by B. J. Craig, Secretary and Assistant Treasurer, to Guaranty Trust Co. of New York, was thereupon designated "Committee Exhibit No. 72, January 11, 1934," and same appears immediately following, where read by Mr. Pecora.)

Mr. PECORA. Mr. Colombo, with regard to any of these letters the witness may have identified, any advice you can give to impeach the authenticity of any of these documents, we will be glad to get from you and we will amend the record accordingly.

Mr. COLOMBO. I reserve the right to object.

Mr. PECORA. There is no such right.

Mr. COLOMBO. I thought I could make one.

Mr. PECORA. The letter is marked "Committee's Exhibit No. 72 of this date," and reads as follows, on the letterhead of the Ford Motor Co., Rouge Plant, Dearborn, Mich. [reading]:

DECEMBER 28, 1932.

GUARANTY TRUST COMPANY OF NEW YORK,
140 Broadway, New York, N.Y.

DEAR SIRS: We have examined and approved the proposed form of agreement to be made between yourselves and Guardian National Bank of Commerce of Detroit, a copy of which is annexed hereto as Exhibit A, with respect to the purchase by said Guardian National Bank of Commerce of Detroit from you of \$7,500,000 principal amount of U.S. Treasury One year 3 1/4% notes dated December 15th, 1932.

We hereby advise you that we consent to and authorize the pledge with yourselves of said \$7,500,000.00 principal amount of U.S. Treasury Notes as collateral security for the payment to you of the Cashier's Check of Guardian National Bank of Commerce of Detroit, all in the manner referred to in said agreement.

Yours very truly,

FORD MOTOR COMPANY,
B. J. CRAIG,
Secretary and Assistant Treasurer.

I show you what purports to be a photostatic reproduction of a letter addressed by the Guaranty Trust Co. of New York to Mr. Elbert S. Burns, vice president and cashier of the Guardian National Bank of Commerce, Detroit, Mich., dated as of December 29, 1932, referring to the letter from the Ford Motor Co. marked "Committee's Exhibit No. 72." Will you look at it, Mr. Ford, and tell us if you know anything about it?

Mr. FORD (after perusing document). No, sir.

Mr. PECORA. It relates to the transaction referred to in the two previous letters, doesn't it?

Mr. FORD. I would assume it did.

Mr. PECORA. I offer it in evidence.

Senator COUZENS (presiding). The same will be entered on the record.

(Photostat of letter on letterhead of Guaranty Trust Co. of New York, dated Dec. 29, 1932, from William L. Kleitz to Elbert S. Burns, was thereupon designated "Committee Exhibit No. 73, Jan. 11, 1934", and same appears in full immediately following, where read by Mr. Pecora.)

Mr. PECORA. The document marked "Committee's Exhibit No. 73 of this date", written on the letterhead of the Guaranty Trust Co. of New York, reads as follows [reading]:

DECEMBER 29, 1932.

Mr. ELBERT S. BURNS,
Vice President and Cashier, *Guardian National Bank of Commerce,*
Detroit, Michigan.

DEAR MR. BURNS: We have received the letter with enclosures from the Ford Motor Company dated December 28th, enclosed with yours of the same date. We also acknowledge receipt of your accepted copy of our letter to you dated December 22nd. We are returning herewith our accepted copy of your letter to us dated December 24th.

On receipt of your treasurer's check for \$7,532,941.28 on December 31st, we will sell to you \$7,500,000.00 principal amount of U. S. Treasury One Year 3/400 Notes dated December 15, 1932.

Very truly yours,

W. L. KLEITZ, *Vice President.*

I show you what purports to be a photostatic copy of another letter addressed to the Guaranty Trust Co. of New York, signed by the Guardian National Bank of Commerce of Detroit, dated December 24, 1932, and which appears to be the letter of that date referred to in Committee's Exhibit no. 73 just received in evidence. Will you look at it, Mr. Ford, and tell us if you know anything about that letter?

Mr. FORD (after perusing document). I have never seen that letter, sir.

Mr. PECORA. But you know that it relates to the same transaction?

Mr. FORD. I would think so.

Mr. PECORA. I offer it in evidence.

Senator COUZENS (presiding). It may be entered on the record.

(Photostat of letter on letterhead of Guardian National Bank of Commerce of Detroit, dated Dec. 24, 1932, from Elbert S. Burns, Vice President Guardian National Bank of Commerce of Detroit to Guaranty Trust Co. of New York was designated "Committee Exhibit No. 74, Jan. 11, 1934", and appears in full immediately following where read by Mr. Pecora.)

Mr. PECORA. The letter is marked "Exhibit No. 74" of this date on the letterhead of the Guardian National Bank of Commerce of Detroit and reads as follows. [Reading:]

DECEMBER 24, 1932.

GUARANTY TRUST COMPANY OF NEW YORK,
141 Broadway, New York, N.Y.

(Attention of Mr. Wm. L. Kleitz, Vice President.)

DEAR SIRS: We beg to confirm as follows the arrangements which we have made with you with respect to your purchase of \$7,500,000.00 principal amount of U.S. Treasury One-year 3/4% notes dated December 15, 1932:

1. We hereby agree to purchase from you, and you agree to sell to us, on December 31, 1932, \$7,500,000.00 principal amount of U.S. Treasury One-year $\frac{3}{4}\%$ notes dated December 15, 1932 (hereinafter referred to as U.S. Treasury Notes) at a price of 100.40625, plus accrued interest thereon to December 31, 1932.

2. Payment for said U.S. Treasury Notes shall be made by us to you by our delivering to you, at your office in New York City on the morning of December 31, 1932, our Cashier's Check for said purchase price.

3. You are hereby authorized and directed to hold said U.S. Treasury Notes as collateral security for the payment of our above mentioned Cashier's check until said Cashier's Check has been paid in full.

Apparently they were not taking any chances with a Cashier's check.

4. It is our intention to sell the said U.S. Treasury Notes on December 31, 1932, to Ford Motor Company, and we hand you herewith the written consent and authorization of said Ford Motor Company to the pledge of said U.S. Treasury Notes with yourselves as collateral security as aforesaid.

If the foregoing is in accordance with your understanding of our agreement, kindly so indicate by signing and returning to us the enclosed carbon copy of this letter, whereupon this letter shall constitute a binding agreement between us.

Yours very truly,

GUARDIAN NATIONAL BANK OF COMMERCE OF DETROIT,
By ELBERT S. BURNS, Vice President.

The foregoing is hereby approved and accepted.

GUARANTY TRUST COMPANY OF NEW YORK,
By W. L. KLEITZ, Vice President.

At the same time did the Guardian National Bank of Commerce of Detroit purchase from the Chemical Bank & Trust Co. of New York for the account of the Ford Motor Co. \$7,300,000 of Fourth United States Liberty Loan bonds, $4\frac{1}{4}$ percent, for the principal amount, with accrued interest, of \$7,648,372.21?

Mr. FORD. Did they?

Mr. PECORA. Yes.

Mr. FORD. I do not know.

Mr. PECORA. I show you what purports to be a photostatic copy of a letter addressed by Mr. Burns as vice president and cashier of the Guardian National Bank of Commerce of Detroit to Mr. B. J. Craig, secretary of the Ford Motor Co., Dearborn, Mich. Will you look at it and tell me if that is a true copy of such a letter?

Mr. FORD (after perusing document). I don't recall having seen that letter, sir.

Mr. PECORA. Well, I offer it in evidence subject to any correction of the record you may want to make if you should learn that that is not a true and correct copy.

Mr. FORD. I don't question it at all.

Mr. PECORA. What is that?

Mr. FORD. I don't question it.

Senator COUZENS (presiding). The same may be entered in the record.

(Photostat of letter on letterhead of Guardian National Bank of Commerce of Detroit, dated Dec. 30, 1932, from Vice President and Cashier to B. J. Craig, was designated "Committee Exhibit No. 75, Jan. 11, 1934", and same appears immediately following where read by Mr. Pecora.)

Senator COUZENS (presiding). I think, Mr. Pecora, that the committee should recess until 10:30 tomorrow morning on account of the Senate being in session now.

Mr. PECORA. This is the last letter I want to offer in evidence, and then I suggest an adjournment be taken.

The document received in evidence as committee's Exhibit No. 75 of this date reads as follows, on the letterhead of the Guardian National Bank of Commerce of Detroit. [Reading:]

DECEMBER 30, 1932.

Mr. B. J. CRAIG,
Secretary, Ford Motor Company, Dearborn, Michigan.

DEAR MR. CRAIG: Supplementing my letter of December 22, 1932, I wish to advise that the Chemical Bank & Trust Company are billing for delivery December 31, 1932 direct for the account of the Ford Motor Company \$7,300,000.00 par value 4th 4 1/4% U.S. Liberty Bonds at 103 $\frac{28}{32}$, or a principal amount of \$7,582,875.00, plus accrued interest to December 31, 1932 of \$65,497.21, or an aggregate total of \$7,648,372.21.

In accordance with our previous letter, we are charging your Treasurer's demand account for this amount on December 31, 1932, to cover the purchase of our Cashier's Check, payable to the Chemical Bank & Trust Company, Number C 24000, in payment of this purchase for your account.

In accordance with your agreement to sell these securities to us on January 3, 1933, as outlined in our letter of December 22nd, we are enclosing our confirmation of purchase from you of the above mentioned bonds at the same market value at which they were purchased by you, plus accrued interest to January 3, 1933 of \$67,220.81, or an aggregate total of \$7,650,095.81. On January 3, 1933 we will credit your Treasurer's demand account for this amount, as outlined in our letter of December 22nd.

Yours very truly,

Signed by ELBERT S. BURNS,
Vice President and Cashier.

Senator COUZENS (presiding). The witnesses will be present tomorrow morning at 10:30, and the committee will stand in recess until then.

(Accordingly, at 1:02 p.m., the committee adjourned until 10:30 a.m. of the following day.)

STOCK EXCHANGE PRACTICES

FRIDAY, JANUARY 12, 1934

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON BANKING AND CURRENCY,
Washington, D.C.

The subcommittee met at 10:30 a.m., pursuant to adjournment on yesterday, in Room No. 301 of the Senate Office Building, Senator Duncan U. Fletcher presiding.

Present: Senators Fletcher (chairman), Costigan, Adams, and Couzens.

Present also: Ferdinand Pecora, counsel to the committee, Julius Silver and David Saperstein, associate counsel to the committee; and Frank J. Meehan, chief statistician to the committee; and Clifford B. Longley and Louis J. Colombo, attorneys for Edsel B. Ford.

The CHAIRMAN. The subcommittee will come to order. Mr. Ford will take the stand, please.

TESTIMONY OF EDSEL B. FORD, PRESIDENT FORD MOTOR CO., DEARBORN, MICH.—Resumed

Mr. PECORA. Mr. Ford, do you know what expense, if any, the Guardian National Bank of Commerce was put to in order to purchase Government securities for the account of the Ford Motor Co. at the end of 1931, buying them from the Ford Motor Co.?

Mr. FORD. No, sir.

Mr. PECORA. Did the Ford Motor Co. defray to the bank any of the expense that the bank might have been put to, or the loss which it might have incurred, in connection with that transaction?

Mr. FORD. I do not know, sir. I did not handle the transaction.

Mr. PECORA. On yesterday in the course of your testimony you told the subcommittee about a loan of 1 million dollars which you made to the Guardian Detroit Co. on December 11, 1930; and about a loan of 5 million dollars of securities which you made at about the same time to the same company, in order to enable that company to use those securities as collateral for a loan of 4½ million dollars. Now, did you or your company make any other loans to either the Guardian Union Group, Inc., or any of its units?

Mr. FORD. The Guardian Detroit Union Group, Inc., made a loan at the Continental Commercial Bank, on which I was endorser.

Mr. PECORA. When?

Mr. FORD (witness begins looking through some papers in his portfolio).

Senator COUZENS. While you are looking through your records, Mr. Ford, do you remember the amount?

Mr. FORD. It was 2½ million dollars.

Mr. PECORA. Was that on or about July 1, 1932?

Mr. FORD (continuing to look through some papers in his portfolio). The agreement was dated December 16, 1931.

Mr. PECORA. Who were the parties to that agreement?

Mr. FORD (continuing to look through his papers).

Mr. PECORA. While you are looking that up let me ask you: Was that agreement the one under which a credit not to exceed 15 million dollars was arranged for?

Mr. FORD. I do not believe I remember that.

Mr. PECORA. Do you recall anything at all about the terms of the agreement?

Mr. FORD. I would have to look it up to see.

Mr. PECORA. All right.

Mr. FORD (continuing to look through some papers). I haven't the agreement—yes, I find I have a copy of the agreement here.

Mr. PECORA. Will you produce it, please?

Mr. FORD. Do you want it?

Mr. PECORA. Yes.

Mr. FORD. Here it is.

Mr. PECORA. Thank you. Now, Mr. Ford, I have before me what purports to be a photostatic reproduction of the copy of the agreement which you have just shown me. Will you look at the photostatic reproduction thereof, which I now hand to you, and tell me if you recognize it as a true and correct copy of the agreement in question?

Mr. FORD (after making a comparison, Mr. Colombo, his attorney, holding the photostat, and the witness holding his own paper).

The CHAIRMAN. You can answer now if you are ready, Mr. Ford.

Mr. FORD. Yes, sir; that is a copy.

Mr. PECORA. Mr. Chairman, I offer in evidence the photostatic reproduction of the agreement.

The CHAIRMAN. Let it be admitted and entered in the record.

(An agreement in letter form, dated Dec. 16, 1931, addressed to the Continental Illinois Bank & Trust Co. of Chicago, and the Bankers Trust Co. of New York City, signed by Guardian Detroit Union Group, Inc., was marked "Committee Exhibit No. 76, Jan. 12, 1934", and will be found where read by Mr. Pecora.)

Mr. PECORA. Now, Mr. Ford, do you know the circumstances under which this agreement, which has been marked "Committee Exhibit No. 76", in evidence, was entered into?

Mr. FORD. I do not quite get your question, Mr. Pecora.

Mr. PECORA. Do you know the circumstances under which this agreement was entered into?

Mr. FORD. Well, this is the agreement. Do you mean by your question, the terms of the agreement?

Mr. PECORA. No; not the terms, but—

Mr. FORD (continuing). The reasons for it?

Mr. PECORA (continuing). The reasons or circumstances under which it was found necessary or advisable to make the agreement that has just been produced and placed in evidence.

Mr. FORD. Well, the Guardian Group wished to borrow some money, and that was the method by which they went about doing it.

Mr. PECORA. What was the condition of the Guardian Group at that time which made it necessary for it to borrow money?

Mr. FORD. Well, the assets of members or units were being criticized, and—

Mr. PECORA (interposing). Criticized by whom?

Mr. FORD. By the examiner, I suppose.

Mr. PECORA. By assets of the members—do you mean assets of the banks that were units of the group?

Mr. FORD. Units of the group; yes, sir. And as I remember it those funds were used to take out those criticized assets.

Mr. PECORA. Well, now, I will read the agreement that has been offered in evidence and received as "Committee Exhibit No. 76" of this date. It is in letter form, and as follows:

GUARDIAN DETROIT UNION GROUP, INC.,
Detroit, Mich., December 16, 1931.

CONTINENTAL ILLINOIS BANK & TRUST CO.,
Chicago.

BANKERS TRUST CO.,
New York.

GENTLEMEN: It is proposed that the Guardian Detroit Union Group, Inc., a Michigan corporation, borrow in its own name or in the name of certain of its directors, for or on its behalf, not to exceed an aggregate of \$15,000,000 as set forth in this letter and as authorized by the board of directors at a regular meeting held on December 14, 1931.

1. The loan which the Bankers Trust Co. now holds from the Guardian Detroit Co. of \$4,500,000 will be assumed by the Guardian Detroit Union Group, Inc. This loan is now secured by approximately \$5,000,000 par value of municipal bonds, the property of Mr. Edsel B. Ford and loaned by him to the Guardian Detroit Co. with full power in that company to pledge the same. The Bankers Trust Co. will continue to carry said loan as the obligation of the Guardian Detroit Union Group, Inc., under the same terms and conditions as it is now carrying the obligation of the Guardian Detroit Co. The Bankers Trust Co. will also loan to the Guardian Detroit Union Group, Inc., up to \$3,000,000, which said loan is to be secured by certain bonds and stocks of a character acceptable to Bankers Trust Co. (by D.P.C.) and now the property of the Guardian Detroit Co. (to be acquired by the Guardian Detroit Union Group, Inc.), said loan to be collateralized with a margin of at least 25 percent in market value as against the face amount of the loan. Both of the aforesaid loans, that is to say, the loan for \$4,500,000 and loan for \$3,000,000, may be liquidated from time to time by the sale of the collateral, and the Guardian Detroit Union Group, Inc., shall have the right to pledge such additional collateral as it may have available when and as needed (other than its holdings of bank shares).

2. The Bankers Trust Co. will loan for a period, with renewals, not exceeding 3 years, to Mrs. C. S. Mott, \$2,500,000, said loan to be collateralized by the note of a like amount of Guardian Detroit Union Group, Inc., payable to the order of said Mott, and by him endorsed and assigned in connection with his loan.

3. The Continental Illinois Bank & Trust Co. will loan the Guardian Detroit Union Group, Inc., for a period with renewals not exceeding 3 years, \$2,500,000 upon the direct unsecured obligation of said corporation.

4. The Continental Illinois Bank & Trust Co. will loan to Mr. Edsel B. Ford for a period with renewals not exceeding 3 years, \$2,500,000, said loan to be collateralized by the note of a like amount of the Guardian Detroit Union Group, Inc., payable to said Ford and by him endorsed and assigned in connection with his loan.

5. In connection with the three last-named loans of \$2,500,000 each, aggregating \$7,500,000, it is understood and agreed as follows:

(a) The rate of interest for the first year shall be 5½ percent per annum payable quarterly on the 5th of January, April, July, and October.

(b) The rate of interest after the first year shall be as agreed upon from time to time, but at a rate not less than 5 percent nor more than 6 percent per annum.

(c) The Guardian Detroit Union Group, Inc., undertakes to pay not less than \$1,500,000 on or before January 1, 1933, a further sum of not less than \$2,250,000 on or before January 1, 1934, and the balance on or before January 1, 1935.

(d) All payments made upon the principal of said loans shall be applied *pro rata* thereon.

(e) The maturity of the notes evidencing said indebtedness from time to time shall be as may be agreeable to the Bankers Trust Co. and the Continental Illinois Bank & Trust Co., with the understanding that renewals will be made from time to time to the end that the entire obligation of \$7,500,000 will be liquidated on or before January 1, 1935.

6. Except from or by liquidation of the collateral itself, the loans made by the Bankers Trust Co., aggregating approximately \$7,500,000 and specifically referred to in paragraph 1 of this letter, will not be liquidated from other sources than the collateral securing the same without the consent of the Continental Illinois Bank & Trust Co., Mr. Edsel B. Ford, and Mr. C. S. Mott.

7. Mr. Edsel B. Ford will agree that the present obligation of \$1,000,000, owing to him by the Guardian Detroit Co., will remain the obligation of that company until the total borrowings of the Guardian Detroit Union Group, Inc., have been reduced to such an extent that the transfer of said obligation from the Guardian Detroit Co. to the Guardian Detroit Union Group, Inc., will not exceed the \$15,000,000 hereinafter referred to, authorized by the board of directors and, furthermore, that said obligation and the obligation to return to him said \$5,000,000 par value of bonds will be carried by said Edsel B. Ford until the final liquidation and payment of the \$7,500,000 of loans referred to in paragraphs 2, 3, and 4 of this letter, and that until such liquidation said obligations will be subordinated to the payment thereof.

8. The Guardian Detroit Union Group, Inc., undertakes that other than the borrowings previously referred to in this letter, it will make no further or additional borrowings without the prior consent of the Bankers Trust Co., the Continental Illinois Bank & Trust Co., Mr. Edsel B. Ford, and Mr. C. S. Mott.

9. The Guardian Detroit Union Group, Inc., agrees that no sale of its major bank stock holdings will be made without the consent of the parties named in the foregoing paragraph as long as all or any part of the \$7,500,000 loans referred to in paragraphs 2, 3, and 4 of this letter shall remain outstanding, unless the proceeds of such sale or sales shall be applied in liquidation of said loans and shall be sufficient in amount to accomplish such liquidation.

10. No major changes shall be made in the management of the Guardian Detroit Union Group, Inc., or in any of its large Detroit units after March 1, 1932, which in the opinion of the Bankers Trust Co. and the Continental Illinois Bank & Trust Co., shall be detrimental to the entire situation or which may adversely affect the security of their obligations.

Yours very truly,

ROBERT O. LORD,
President.

A. A. F. MAXWELL,
Secretary.

We have read the foregoing and the terms thereof are satisfactory to us and we agree to the terms thereof:

C. S. MOTT.
EDSEL B. FORD.

Accepted, December 18, 1931.

BANKERS TRUST CO.,
S. SLOAN COLT,
President.

CONTINENTAL ILLINOIS BANK & TRUST CO.,
ABNER J. STILWELL,
Vice President.

Now, reference is made, as you have probably noticed in this letter of agreement, to action taken by the board of directors of the Guardian Detroit Union Group, Inc., at its regular meeting held on December 14, 1931, authorizing the making of the loans referred to in this letter of agreement. Are you familiar with the action that was taken by the board of directors at that time?

Mr. FORD. I do not recall it.

Mr. PECORA. See if your recollection is refreshed by my reading to you the following extract from the minutes of the meeting of the board of directors of the group on December 14, 1931. At the meeting in question, according to the minute book, you did not attend. Does that accord with your recollection?

Mr. FORD. I don't remember, sir.

Mr. PECORA. I will read this extract from the minutes, under the caption of the "Report of the President":

President Lord made the following recommendations, which, on motion duly made and seconded, were unanimously approved:

Then follow recommendations numbered here 1, 2, 3, 4, 5, 6, 7, 8, and 9. The fourth recommendation reads as follows:

Second. We recommend that all bad or doubtful assets be lifted out from all banks and trust companies, so as to place these units in the best possible condition to compete for banking and trust business, to which we recommend that we confine our activities in the future.

Then recommendation no. 5 made by Mr. Lord reads as follows, according to the minutes:

Third: In order to effect liquidation of the portfolio of the securities companies to best advantage, we recommend that this liquidation be centered in the Group Co. and that all loans of the various securities companies be consolidated in a loan by the Group Co., part of the proceeds of which will be used to pay off existing loans of the various security companies.

Recommendation no. 8 reads as follows:

In order to assume and pay off present loans to the securities companies and provide for working out recoveries from slow or doubtful assets of banks and trust companies, and thereby give them increased liquidity, it is recommended that authority be granted to the officers of the Group Co. to borrow from time to time, as may be necessary to put the above program into effect, a total of not to exceed 15 million dollars, upon such terms as may be agreed upon.

The CHAIRMAN. How many of those security companies were there, Mr. Ford; do you remember?

Mr. FORD. I think there were four, but I am not sure.

The CHAIRMAN. Their business chiefly was to furnish security for deposits on public funds in these institutions?

Mr. FORD. Oh, no, sir; they were to deal in securities.

Mr. PECORA. They were security affiliates of the different bank units in the Group. And the most important one and the largest one was the company known as the Guardian Detroit Co.?

Mr. FORD. That is right.

Mr. PECORA. That was the security affiliate of the Guardian Detroit Bank, which afterward became the Guardian National Bank of Commerce?

Mr. FORD. Yes, sir.

Senator COUZENS. Can you enumerate those four affiliates?

Mr. FORD. Keane, Higbie & Co. was one at one time. I cannot quite remember the termination. The Guardian Detroit Co. was another one. And I think there were two up in the State, but I cannot recall them.

Senator COUZENS. Do not recall the names?

Mr. FORD. No, sir; I do not. I may be mistaken about that number, but I think there were four.

Mr. PECORA. Do you recall that the condition not only of the Group but of its various bank and security affiliate units in December 1931 was rather serious?

Mr. FORD. Yes. These assets were being appraised and depreciated all the time, and that is what made the different units require assistance of this kind to satisfy the depreciation and the criticism of the securities against the loans in these banks.

Mr. PECORA. Do you know how much of the moneys representing proceeds of any loans made to the Group under the terms of this agreement of December 16, 1931, which has been marked in evidence as "Committee's Exhibit No. 76" was actually used for the purposes that you have referred to?

Mr. FORD. No, sir. I do not.

Mr. PECORA. Do you know how much was actually borrowed by the Group under the terms of this agreement of December 16, 1931?

Mr. FORD (after referring to documents). I would not dare say. I don't know the exact figure.

Senator COUZENS. Was the whole fifteen million borrowed?

Mr. FORD. I don't know that. I don't think so, but I don't remember.

Senator COUZENS. May I ask, Mr. Pecora, at this time whether those minutes of December 14, 1931, included the list of directors who were present?

Mr. PECORA. Yes, sir; I will read them into the record from the minute book. This purports to have been an adjourned regular quarterly meeting of the board of directors of the Guardian Detroit Union Group, Inc., held on Monday, December 14, 1931, at 2 p.m.

"There were present"—and I will read the names from the minutes—"Frank W. Blair, Arthur C. Bloomfield, Henry E. Bodman, Clarence H. Booth, Joseph H. Brewer, Daniel D. Brown, Charles S. Campbell, George R. Cook, Harry S. Covington, John H. French, Frank E. Gorman, Stephen A. Graham, C. H. Haberkorn, Jr., Sherwin A. Hill, Ernest Kanzler, Robert O. Lord, Frank J. Maurice, Edwin R. Morton, Charles S. Mott, Fred T. Murphy, Edwin H. Nelson, Phelps Newberry, Bert K. Patterson, Herbert S. Reynolds, John R. Russell, Murray W. Sales, Henry W. Sanger, R. Perry Shorts, Hal H. Smith, John N. Stalker, James L. Walsh, Charles B. Warren.

"Mr. Frank W. Blair, chairman of the board, presided, and Mr. A. A. F. Maxwell acted as secretary."

Now, apparently the difficulties of the Group and various of its units became so marked by December of 1930 that loans of 5½ million dollars had to be obtained, which were obtained by a loan of 1 million dollars, which you individually made, and a loan of 4½ million dollars, obtained from the Bankers Trust Co. upon 5 million dollars principal amount of securities loaned by you to the Guardian Detroit Co.

Mr. FORD. Yes, sir.

Mr. PECORA. Now, despite that fact, Mr. Ford, it appears that during the year 1930 and during the year 1931, particularly, the Group paid substantial cash dividends to its stockholders, the greater portion of which it obtained in the form of dividends declared by the various banking units of the Group. You recall that to be the fact, don't you?

Mr. FORD. Yes, sir.

Mr. PECORA. Did you, as a director of the Group, sanction the declaration and payment of those dividends during those years both by the Group and by the various unit banks in the Group?

Mr. FORD. I don't recall actually sanctioning them, but I know that they were being paid. I didn't criticize them.

Mr. PECORA. You did not criticize them?

Mr. FORD. No, sir.

Mr. PECORA. You did not offer any objection or protest to such action?

Mr. FORD. No, sir.

Mr. PECORA. Were you present at the meetings of the board of the Group at which those dividends were declared?

Mr. FORD. I don't remember.

Mr. PECORA. During the years 1930 and 1931?

Mr. FORD. I don't remember.

Mr. PECORA. Have you a good memory, Mr. Ford?

Mr. FORD. I think so.

Senator ADAMS. It does not always operate.

Mr. PECORA. Up to the present time you have not recalled many, or most in fact, of the important things that I have asked you about concerning the business and the operation of the Group and unit banks.

Mr. FORD. Well, I am very sorry, sir, but there are a great many things going on from day to day that I have to go through with, and it is not always possible to retain all kinds of facts and figures. Some people are more able to do that than others.

Mr. PECORA. Outside of your position as president of the Ford Motor Co., and I presume a member of its board of directors, did you act as a director or officer of any other corporation during the years 1930 and 1931 and 1932, with the exception of this Group and one or two of its unit banks?

Mr. FORD. Well, I would have to refer to my records. We have a lot of subsidiary corporations.

Mr. PECORA. By "we" you mean the Ford Motor Co.?

Mr. FORD. Yes.

Mr. PECORA. Outside of the immediate corporate interests of the Ford Motor Co. and its subsidiaries, did you sit and serve as a member of the board of directors of any other corporation or corporations than this Group and any of its unit banks during the years 1930 and 1931 and 1932?

Mr. FORD. I don't think so.

Mr. PECORA. Do you know what the status is today of any of the loans that were made under this agreement of December 16, 1931?

Mr. FORD. I know that some of them were paid.

Mr. PECORA. Do you know which ones?

Mr. FORD. The $4\frac{1}{2}$ million dollar loan that was at the Bankers Trust Co. and the $2\frac{1}{2}$ million dollar endorsement which I made was paid. Those are the only ones I know of.

Mr. PECORA. The others remain unpaid?

Mr. FORD. I don't know, sir.

Mr. PECORA. Now, you spoke of the payment of the loan of $4\frac{1}{2}$ million dollars. Was that paid by the group or by any of its units?

Mr. FORD. No.

Mr. PECORA. As a matter of fact, it was paid by the Ford Motor Co., wasn't it?

Mr. FORD. That is right.

Mr. PECORA. When I asked you before about the status of these loans and you said that some of them were paid I wanted you to tell which of these loans or portions thereof had been paid by the Group or any of its units.

Mr. FORD. I don't think any of them were paid by the group or its units.

Mr. PECORA. And that was because the group and those units were not in a position to repay those loans, wasn't it?

Mr. FORD. I don't know about that. They may have had assets or cash to pay them, but they did not pay them.

Mr. PECORA. The loan of 4½ million dollars which has already been spoken of and which you say was paid by the Ford Motor Co.—has that been repaid to the Ford Motor Co.?

Mr. FORD. No, sir.

Senator ADAMS. And the Ford Motor Co. holds the original papers against the bank?

Mr. FORD. The Ford Motor Co. paid it temporarily and then I reimbursed the Ford Motor Co., so it is an obligation—

Senator ADAMS (interposing). But you hold the obligation against the—

Mr. FORD. Against the group.

Senator ADAMS. Against the group. And that is true as to the 2½-million-dollar obligation also, is it?

Mr. FORD. Yes, sir.

Mr. PECORA. Now, the 2½ million dollars and the 4½-million-dollar obligation that you referred to were both paid on February 18, 1933, by the Ford Motor Co., were they not?

Mr. FORD. Yes, sir.

Mr. PECORA. And the Ford Motor Co. has been reimbursed by you individually?

Mr. FORD. Yes, sir.

Mr. PECORA. And you now hold those obligations?

Mr. FORD. Yes, sir.

Mr. PECORA. Which remain unpaid?

Mr. FORD. Yes, sir.

Mr. PECORA. In addition to the loans provided for by this agreement of December 16, 1931, was any other loan made by you or the Ford Motor Co. to the Guardian Detroit Union Group, Inc., or to any of its units?

Mr. FORD. There was a 3½-million-dollar loan made on [examining papers]—

Mr. PECORA. December 1932, wasn't it?

Mr. FORD. Yes, sir; to the Trust Co.

Mr. PECORA. To the Union Guardian Trust Co.?

Mr. FORD. Yes, sir.

Mr. PECORA. Who made that loan to it?

Mr. FORD. The Ford Motor Co.

Mr. PECORA. Was it collateralized or secured in any way?

Mr. FORD. Ford Motor Co. holds a note dated December 29, 1932.

Mr. PECORA. No part of which has been paid?

Mr. FORD. No, sir.

Mr. PECORA. Now, I show you what purports to be a photostatic copy of an agreement made between the Ford Motor Co. and the Guardian Detroit Union Group, Inc., under date of December 29, 1932. Will you look at it and tell me if you recognize it to be a true and correct copy of memorandum of agreement under which this loan of 3½ million dollars was made by your company to the Guardian Detroit Union Group?

Mr. FORD. I think that is correct.

Mr. PECORA. I offer it in evidence.

The CHAIRMAN. Let it be admitted and entered in the record.

(Photostat of agreement between Ford Motor Co. and Guardian Detroit Union Group, Inc., dated Dec. 29, 1932, was designated "Committee Exhibit No. 77, Jan. 12, 1934", and appears in full immediately following, where read by Mr. Pecora.)

The CHAIRMAN. Mr. Ford, may I ask how the stock of the Ford Motor Co. is held?

Mr. FORD. Held by Mr. Henry Ford and Mrs. Ford and myself.

The CHAIRMAN. Not held by the public?

Mr. FORD. No, sir.

The CHAIRMAN. Then you have another corporation, the Ford Motor Co. of Canada?

Mr. FORD. Yes, sir.

The CHAIRMAN. That stock is listed on the Exchange, I believe, and distributed to the public generally, but that is a separate corporation?

Mr. FORD. That is a separate corporation. We are stockholders in that, and many other people.

Mr. PECORA. The agreement offered in evidence and received as Committee's Exhibit No. 77 of this date reads as follows (reading):

MEMORANDUM OF AGREEMENT

This agreement made this 29th day of December 1932 A.D. by and between the Ford Motor Co., a Delaware corporation, of Detroit, Mich., of the first part, and the Guardian Detroit Union Group, Inc., a Michigan corporation, of Detroit, Mich. (hereinafter called the "Group Co.") of the second part.

Witnesseth: First, the Ford Motor Co. agrees to loan the Group Co. the sum of \$3,500,000, as evidenced by a note of the Group Co. delivered herewith, dated December 29, 1932, A.D., and payable on or before 3 years from date and bearing interest at the rate of 3½ percent per annum, payable semiannually.

Second. The Ford Motor Co. further agrees that the payment of such loan shall be subordinated to the present outstanding obligations of the Group Co., covered by such company's existing agreements with the Continental, Illinois National Bank & Trust Co., of Chicago, and the Bankers' Trust Co. of New York City, such indebtedness being referred to set forth in an agreement dated December 16, 1931, A.D., between such banks and the Group Co., a copy of which is attached hereto and made a part hereof.

Third. The Group Co. agrees that it will make no further or additional borrowings nor pledge the capital stock of any of its subsidiary companies without the prior consent of the Ford Motor Co., so long as the obligation hereby created remains unpaid.

Fourth: The Group Co. also agrees during the period this loan or any part thereof remains unpaid that no sale of its major bank holdings will be made without consent of the Ford Motor Co., unless the proceeds of such sale or sales shall be applied in liquidation of this loan and shall be sufficient in amount to accomplish such liquidation.

Fifth: The Group Co. agrees that the company will pay no dividends upon its capital stock without the consent of the Ford Motor Co. unless the indebtedness referred to in paragraph 1 shall have first been paid in full.

In witness whereof the parties hereto have executed the foregoing.

FORD MOTOR CO.,
By EDESEL B. FORD, President.

By B. J. CRAIG, Secretary.

GUARDIAN DETROIT UNION GROUP, INC.,
By ROBERT O. LORD, President.

By C. H. HABERKORN, Jr., Secretary.

The undersigned hereby consent and agree to the making of the loan to the Group Co. by the Ford Motor Co., above referred to.

CHICAGO, ILL., _____, 19____.

CONTINENTAL ILLINOIS NATIONAL BANK & TRUST CO.,
By _____, Cashier.

NEW YORK, N.Y., December 30, 1932.

BANKERS TRUST CO. OF NEW YORK,
By S. SLOAN COLT, President.
EDSEL B. FORD.
C. S. MOTT.

Senator COUZENS. Was there any collateral for that loan?

Mr. FORD. No, sir.

Mr. PECORA. What is the status of this loan? Has any part of it ever been repaid?

Mr. FORD. Not paid.

Mr. PECORA. Any interest due thereon ever been paid?

Mr. FORD. I don't know.

Mr. PECORA. In the agreement of December 16, 1931, which has been received in evidence this morning as Committee's Exhibit No. 76, I notice the following provision therein. It is in the concluding paragraph, no. 10:

No major changes shall be made in the management of the Guardian Detroit Union Group, Inc., or any of its large Detroit units after March 1, 1932, which, in the opinion of the Bankers Trust Co. and the Continental Illinois Bank and Trust Co., shall be detrimental to the entire situation or which may adversely affect the security of their obligations.

Isn't that rather an unusual provision, whereby a bank holding company virtually surrenders its powers to two banks in two other States?

Mr. FORD. Well, it may be. I never considered it that way. They had loans, as well as ourselves, which they naturally were anxious to protect, and I suppose that provision was put in for that purpose. It never occurred to me that it showed any control or attempted control on the part of anybody else.

Mr. PECORA. It virtually gave these two creditor banks a veto power, didn't it?

Mr. FORD. On any major changes?

Mr. PECORA. Yes.

Mr. FORD. Not necessarily the banks alone. Doesn't that include myself and Mr. Mott?

Mr. PECORA. No; unfortunately. The provision is:

No major changes shall be made in the management of the Guardian Detroit Union Group, Inc., or in any of its large Detroit units after March 1, 1932, which, in the opinion of the Bankers Trust Co. and the Continental Illinois Bank & Trust Co., shall be detrimental to the entire situation.

Mr. FORD. Yes. I am sorry. I misunderstood.

Mr. PECORA. It was probably thought that you as a director in the group were in a position to exercise some voice or judgment with regard to the management of the group. Does not the inclusion of that remarkable provision in this loan agreement indicate further the desperate situation of the group and its unit banks in December 1931?

Mr. FORD. That is subject to interpretation. I do not know that it was necessarily desperate; I did not think so.

Mr. PECORA. Did you think its condition was desperate?

Mr. FORD. I thought it was difficult, but I did not think it was desperate.

Mr. PECORA. Did you think it had become desperate by December 1932?

Mr. FORD. That all depends on what "desperate" means. Each month was more difficult, of course.

Mr. PECORA. When February 1933 came around—you are familiar, are you not, with the fact that representatives of the group sought aid from the Reconstruction Finance Corporation?

Mr. FORD. Yes, sir.

Mr. PECORA. Did you take any part in any discussions or proceedings in relation to those efforts?

Mr. FORD. Not with the authorities down here.

Mr. PECORA. I did not limit the question to efforts with the authorities; but did you take part in any discussions or proceedings with respect to the making of such efforts?

Mr. FORD. Yes, sir.

Mr. PECORA. Will you tell the committee the extent of your participation and the substance of your participation in those discussions, and give also the substance of the discussions themselves?

Mr. FORD. The whole matter was gone over with me by Mr. Kanzler and it was his recommendation that a plan be devised whereby assistance might be had from the Reconstruction Finance Corporation, and I concurred in that; and steps were taken to proceed.

Mr. PECORA. When did Mr. Kanzler first discuss that subject with you?

Mr. FORD. In January sometime.

Mr. PECORA. Of 1933?

Mr. FORD. Yes, sir.

Mr. PECORA. How many conversations did you have with him on that subject—more than one?

Mr. FORD. Oh, yes. I don't recall, but it was more than one.

Mr. PECORA. You discussed the subject about that same period of time with other officers of the group, did you not?

Mr. FORD. I think so.

Mr. PECORA. With whom?

Mr. FORD. Mr. Longley; I do not recall any others.

Mr. PECORA. Just what was the situation of the Group and its unit banks at that time as it was represented to you by Mr. Kanzler or Mr. Longley or anyone else?

Mr. FORD. Some of them were, in their opinion, in good shape, and some of them had considerable frozen assets.

Mr. PECORA. Which were those, in their opinion, that had considerable frozen assets?

Mr. FORD. The Union Guardian Trust Co. was the worst.

Mr. PECORA. Which were the others that had frozen assets?

Mr. FORD. I guess they all had to a certain extent.

Mr. PECORA. Which were those that, in their opinion, as stated to you, were considered by them to be in need of outside relief? And when I say "outside relief" I mean, relief from outside the Group.

Mr. FORD. The plan was to secure sufficient from the Reconstruction Finance Corporation, if possible, to bolster up perhaps all of the units, to put them in shape so that they would weather any storm that might come later on. That was the purpose of the plan.

Mr. PECORA. Well, in the formulation of the plan had any study or survey been made, so far as you know, by anyone, showing the condition of the various banking units in the Group and the condition of the Group itself?

Mr. FORD. Yes, sir.

Mr. PECORA. Were the results of such a survey or examination placed before you?

Mr. FORD. In the form of a discussion; perhaps not a report.

Mr. PECORA. If they were placed before you in the form of a discussion or in any other way, what information was given to you indicating the condition of the Group and its various unit banks, in January 1933?

Mr. FORD. I knew the condition of the group, because of the loans that they had made. Loans were made from time to time to assist the units of the group. This was a further requirement of the units of the group as a precaution to a great extent.

Mr. PECORA. Tell the committee what you knew, then, whether it was knowledge acquired by you directly or whether it was hearsay obtained by you from Mr. Longley or Mr. Kanzler or any other officers of the group.

Mr. FORD. It was information given to me by the officers whom I have mentioned and perhaps others whom I do not recall.

Mr. PECORA. What was the substance of that information? In other words, did they tell you just the condition of each banking unit in the group or the condition of the group itself?

Mr. FORD. Not in any great detail.

Mr. PECORA. To what extent did they inform you about the condition of such unit banks?

Mr. FORD. They enumerated the various banks and said that such and such a bank was in more or less liquid condition, some more liquid than others, and that the less liquid ones would need assistance. I do not recall which ones outside of the Union Guardian Trust Co.

Mr. PECORA. Did you ever attend any meeting of the board of directors of the group or the advisory committee of the board of directors of the group at which there was specifically discussed and considered the condition of each banking unit in the group?

Mr. FORD. A specific meeting?

Mr. PECORA. Any meeting at all.

Mr. FORD. I do not remember.

Mr. PECORA. You do not remember any such meeting of the board of directors attended by you at which that subject came up for discussion?

Mr. FORD. No, sir; I do not. My discussions were principally with the officers mentioned, in discussion of the problems of the units.

Mr. PECORA. Tell us in as much detail as your memory will enable you to do what Mr. Kanzler said to you in January 1933 concerning the condition of the group and its banking units that rendered it advisable or necessary to seek financial assistance from the R.F.C.?

Mr. FORD. The Trust Co. had—

Mr. PECORA. You mean the Union Guardian Trust Co.?

Mr. FORD. Yes—I am sorry. The Union Guardian Trust Co. was in a frozen condition. It had a banking department which was being depleted by withdrawals, and the assets of the bank had frozen to such an extent that they could not be liquidated fast enough to take care of the withdrawals. That was the major problem that was presented down here to the Reconstruction Finance Corporation, and, as I remember it, the suggestion was made that not only should the Trust Co. be taken care of but any other units that needed assistance from the Reconstruction Finance Corporation should be included in this commitment or requirement whereby the units could be put on a sufficiently liquid basis to take care of any withdrawals that might come along.

Mr. PECORA. What units other than the Union Guardian Trust Co. did Mr. Kanzler tell you were in such condition as to require assistance from the R.F.C.?

Mr. FORD. I could not answer that from any definite remembrance at all. I think Flint was one, the unit at Flint, Mich., and I think Lansing was another.

Senator ADAMS. Were you seeking to make a loan to the group from the R.F.C. or individual loans to the different units?

Mr. FORD. I think it was one loan from the R.F.C. in which the collateral was to be put up by these units and the assistance to go back to these units in the way of cash from the Reconstruction Finance Corporation.

Mr. PECORA. Have you told us the substance of all that Mr. Kanzler stated to you on that subject?

Mr. FORD. I have told you all I can remember at this time.

Mr. PECORA. Tell us what Mr. Longley said to you about the same subject.

Mr. FORD. The discussion was on the same subject, and I cannot vary it any. I mean, the whole problem was discussed and certain conclusions were arrived at that the application be made.

Mr. PECORA. How much was to be sought from the R.F.C. for the relief of the group and its banking units?

Mr. FORD. That figure varied. Originally I think the idea was, as I have said before, for the requirements of the Union Guardian Trust Co. Then there was a much bigger commitment asked, I think, to take care of all these requirements for the units, which was some sixty million, I think. Then it was reduced to forty-one or forty-five millions, or something like that.

Senator COUZENS. Before you got to the point of including all of the other units of the group did you frame an application for a loan for the Union Guardian Trust Co. by itself?

Mr. FORD. The Union Guardian Trust Co. already had a loan.

Senator COUZENS. But was there not another plan to add to that?

Mr. FORD. Yes, sir; to add to that.

Senator COUZENS. How much were you asking for in your first plan?

Mr. FORD. I have not the figures here, Senator, and it is awfully hard to remember; but at some time I know that there were 24 or 25 million dollars of deposits and they wanted sufficient money to take care of the deposit liabilities, and as I tried to memorize it, there were about 14 millions, but I am not positive.

Senator COUZENS. Then that was afterward enlarged, as I understand the testimony to state, to a larger amount to include all the units. Is that correct?

Mr. FORD. Yes, sir. I think, on the suggestion of the R.F.C.

Senator COUZENS. Do you know what security was offered to take care of the application for the Union Guardian Trust Co.?

Mr. FORD. The second application or the original one?

Senator COUZENS. The second application.

Mr. FORD. The kind of security?

Senator COUZENS. Yes; and the value that was placed upon it.

Mr. FORD. I think they offered all the remaining assets. The value that was placed on it I do not recall, but it was less than the requirement.

Senator COUZENS. It was less than the requirement?

Mr. FORD. As I understand it.

Senator COUZENS. But you do not know how much less?

Mr. FORD. Those figures changed from time to time. It was sixty some million dollars, and then it was reduced.

Senator COUZENS. I mean before you got to including all the Group, when you first made up your application to secure a loan sufficient to pay off all of your depositors in the Trust Co., there was a deficiency, as I understand it, between the securities offered and the amount of the loan applied for?

Mr. FORD. Yes, sir. I do not remember what that was. I remember what the final deficiency was, but I do remember what that was at the time.

Senator COUZENS. What was the final deficiency?

Mr. FORD. It was about \$7,000,000.

Mr. PECORA. Are you familiar in any way with the results of the conferences that were had with members of the board of the R.F.C. by officers and directors of the Guardian Detroit Union Group during January and February of 1933 with respect to the Group's application for a loan from the R.F.C. to enable the Group and the unit banks to take care of the situation in which it then found itself?

Mr. FORD. Yes; I think I am.

Mr. PECORA. Tell the committee what you understand to have been the course of events.

Mr. FORD. I thought I already had—that Mr. Kanzler and Mr. Longley came to Washington and contacted the Reconstruction Finance Corporation and made this request. The Reconstruction

Finance Corporation sent appraisers or technical men to Detroit to appraise the assets, and then they had various meetings, or several meetings, with the R.F.C. board and others that were interested—I think, Treasury officials. It was a matter of negotiation from then on, which took many days. The first trip was made in the latter part of January, I believe, and then there was another trip on the 6th or 7th or 8th of February.

Is that what you want, Mr. Pecora?

Mr. PECORA. Well, I want whatever you know of that.

Mr. FORD. Well—

Mr. PECORA. Is that all you know about it?

Mr. FORD. I would much rather have you ask me a specific question. It seems to me that I have covered that phase of it. I said they contacted with the R.F.C. officials, and after that it was a matter of negotiation as to the value of the assets, the value of the collateral pledged, and the amount of loan required, and the details started to be worked out.

Mr. PECORA. You understood that the R.F.C., as the result of conferences that its members had with officers of the group, sent examiners to Detroit to examine the assets of the unit banks and of the group which would be available as security for a loan that was sought from the R.F.C.?

Mr. FORD. Yes, sir.

Mr. PECORA. Do you know the result of the examination of those assets by the examiners for the R.F.C.?

Mr. FORD. I have been told that the assets which were first presented were not of sufficient value; that the officers that came down here were told to put in the slow assets, not to put in the liquid assets; that the slow assets, provided they were all right, would be just as suitable for a loan of that kind; and they did that. Then, when these figures were made up the collateral was insufficient and they came back to Detroit and put in additional collateral.

Mr. PECORA. Well, with the additional collateral, was the amount of the security found sufficient?

Mr. FORD. It was insufficient.

Mr. PECORA. By what amount?

Mr. FORD. Six or seven million dollars, I believe.

Mr. PECORA. Was any suggestion made with regard to that 6 or 7 million dollars?

Mr. FORD. To me?

Mr. PECORA. To you.

Mr. FORD. For what purpose?

Mr. PECORA. As to how it might be taken care of.

Mr. FORD. That we supply it?

Mr. PECORA. Yes, sir.

Mr. FORD. Yes.

Mr. PECORA. What suggestion was made to you on that subject? Who made it, and what was the outcome of it?

Mr. FORD. I think Mr. Kanzler made it—perhaps Mr. Longley. I discussed it with both—the question of subordinating the balance of our deposits in the Union Guardian Trust Co.

Mr. PECORA. Do you recall how much your company had on deposit in the Union Guardian Trust Co. at that time?

Mr. FORD. Seven and a half million dollars.

Mr. PECORA. What was the suggestion made to you about it?

Mr. FORD. That they be subordinated.

Mr. PECORA. To what?

Mr. FORD. To the other deposits.

Mr. PECORA. Was any other suggestion made on that subject?

Mr. FORD. Later on the suggestion was made that we supply additional capital besides that subordination.

Mr. PECORA. For a new company to be created?

Mr. FORD. A new mortgage company to be created.

Mr. PECORA. Which would take over the assets of the group and its unit banks and pledge them with the R.F.C. for a loan to be made by the R.F.C. for the benefit of the group and its banks?

Mr. FORD. I think that was it.

Mr. PECORA. What specifically was the suggestion made to you on that phase of the subject; that is, of providing new capital for this mortgage company to be created for the purposes that have been indicated?

Mr. FORD. It was just that, that we supply, I think, \$5,000,000 more capital.

Mr. PECORA. What decision did you reach with regard to those suggestions?

Mr. FORD. That we would not do it.

Mr. PECORA. That you would neither supply the capital required for the creation of the new mortgage company nor subordinate your deposits in the Trust Co.?

Mr. FORD. It did not come to a definite understanding about the subordination, but I think it was pretty generally understood what we would do. We did not make any definite agreement, but it was understood that the subordination would take place.

Mr. PECORA. It was understood what subordination would take place?

Mr. FORD. Seven and a half millions additional deposits in the Union Guardian Trust Co. I mean, in the discussion it was assumed that we would do it.

Mr. PECORA. Did you indicate that you would do it?

Mr. FORD. Yes.

Mr. PECORA. Did you state that definitely to Mr. Kanzler or Mr. Longley or any other officer of the Group?

Mr. FORD. I think I did; yes.

Mr. PECORA. Was that communicated to the R.F.C.?

Mr. FORD. I do not recall. I did not do it; I did not communicate with them. I don't know whether they did or not; perhaps so.

Mr. PECORA. Did you authorize them to tell the R.F.C. that your company would subordinate its deposits in the trust company?

Mr. FORD. I do not believe it was quite as definite as that, but it was a possibility, if everything else worked out all right. I mean, if that was the only thing left to do.

Mr. PECORA. If that loan would meet the situation you indicated that your company would be willing to subordinate its deposits?

Mr. FORD. Yes, sir.

Mr. PECORA. Did you not understand at the time that there were requirements in addition to that?

Mr. FORD. I did not understand it at the time. It was all in the status of negotiation, and the figures changed all the time and the requirements changed, and the assets were being worked over and reappraised, or at least more thoroughly appraised. I do not know exactly how it was done, and I did not know at that time that an additional requirement was made beyond the subordination.

Mr. PECORA. Did you not know at some time of the additional requirement for raising capital for the new mortgage company?

Mr. FORD. That came later, as I remember it.

Mr. PECORA. Yes. When that did come up, what decision did you make or indicate?

Mr. FORD. I answered that, that we refused to add to the subordination; that we would not put up more new capital. We had put up what we thought was a great amount of money to help this situation through and we came to the end of it. We decided we could not do any more.

Mr. PECORA. According to evidence heretofore introduced before this committee, at a meeting with the Board of Directors of the Reconstruction Finance Corporation, held by Mr. Kanzler, Mr. Longley, and Mr. James L. Walsh, executive vice president of the Guardian Detroit Union Group, Mr. Kanzler stated—and I am quoting from the minutes of the Reconstruction Finance Corporation—that:

in his opinion it would not be feasible to induce depositors to subordinate their claims during the life of the loan by the Corporation, if made, with the exception, possibly, of a few of the larger customers of the Guardian Group, including the Ford Motor Co. In connection with the deposits of this company, totaling about \$30,000,000, in the various member banks of the Guardian Group, Mr. Kanzler stated that not only had Henry Ford within the past 3 years aided the group to the extent of about \$16,000,000 but felt that he had done enough and that they would be obliged to go to Mr. Ford again to assist in raising \$5,000,000 of new capital for the proposed mortgage company. Mr. Kanzler said that it would be impossible, in his opinion, to obtain this \$5,000,000 advance from Mr. Ford if the deposits of the Ford Motor Co. in the Guardian Group of banks were frozen.

Does that represent—

Mr. FORD. Excuse me. What date was that?

Mr. PECORA. February 6, 1933.

Mr. FORD. I know nothing about that, Mr. Pecora. I was not at that meeting.

Mr. PECORA. I know that, but what I am asking you is this: Was that statement which Mr. Kanzler, according to the minutes of the R.F.C., made to the directors of the R.F.C. on February 6 last, correctly representing the attitude that you had indicated to Mr. Kanzler and his associates in the group that the Ford Motor Co. would take?

Mr. FORD. That we would not furnish additional capital for the mortgage company?

Mr. PECORA. Yes.

Mr. FORD. As it turned out, that is what it was; but that was Mr. Kanzler's opinion at that time.

Mr. PECORA. In substance, he forecast the attitude that the Ford Motor Co. eventually took?

Mr. FORD. That is right.

Mr. PECORA. Did you have any discussion of this subject with Mr. A. A. Ballantine, who at that time was Under Secretary of the Treasury?

Mr. FORD. At what time?

Mr. PECORA. In February of 1933.

Mr. FORD. Yes, sir. I met Mr. Ballantine twice.

Mr. PECORA. What was the substance of the discussion you had with Mr. Ballantine when you met him on those two occasions?

Mr. FORD. The first occasion was in the Secretary of the Treasury's office on the 8th, I think, of February. I was down here on another matter, and I met Mr. Ogden Mills and he asked me to come over to his office the following morning, which I did, and Mr. Arthur Ballantine was there and Mr. Miller, president of the R.F.C. I believe that is all.

Mr. PECORA. What was the discussion that you had?

Mr. FORD. I understand; I am coming to that. There was very little detailed discussion then; it was a question of the general situation which they pointed out.

Mr. PECORA. Tell us what they pointed out.

Mr. FORD. I do not want to betray any—

Mr. PECORA. Assume that we are in complete ignorance of what happened between you and Mr. Mills and Mr. Ballantine, and tell us the substance of the conversation that you had.

Mr. FORD. I do not like to quote conversations of Cabinet officers.

Mr. PECORA. Not the words, but the substance.

Mr. FORD. They pointed out the difficult situation in Detroit due to the more acute economic distress in Detroit and Cleveland. I think they mentioned Minneapolis. They mentioned the worst places in the country where the banking situation was the most tense; and they outlined to me what the negotiations had been with the Detroit bank officials. It was a very general discussion. I do not recall any more than that, on that occasion.

Mr. PECORA. Was anything said in the course of those discussions upon the subject of whether or not your company would freeze its assets or subordinate them?

Mr. FORD. Yes. I think Mr. Mills suggested the possibility of such a thing.

Mr. PECORA. How did you meet the situation?

Mr. FORD. I said we had already done some, and I could not give him a definite answer at that time. That is as I recall it.

Mr. PECORA. Did you eventually give them any kind of a definite answer on that?

Mr. FORD. Mr. Ogden Mills?

Mr. PECORA. Either Mr. Mills or Mr. Ballantine or anyone else connected with the Treasury Department or the R.F.C.

Mr. FORD. Mr. Arthur Ballantine was in Detroit on Monday, the—

Mr. PECORA. The 13th of February?

Mr. FORD. The 13th, was it?

Mr. PECORA. Yes.

Mr. FORD. And he called to see me with Mr. Roy Chapin, who was Secretary of Commerce at that time. They urged very energetically the making of an additional financial commitment—not a commitment, but that we put up additional capital.

Mr. PECORA. That is, they suggested that you and your father or your company put up additional capital?

Mr. FORD. Yes; in addition to—

Mr. PECORA. In addition to subordinating your assets?

Mr. FORD. Yes; in addition to what we had already done and were considering at that time, and we told Mr. Ballantine we would not go any farther.

Mr. PECORA. Now, Mr. Ford, let me read to you what has already been placed in evidence before this committee, the following extract from the minutes of a board meeting of the Reconstruction Finance Corporation held on February 13, 1933:

Mr. A. A. Ballantine, Under Secretary of the Treasury, said Mr. Henry Ford stated that he would not freeze or defer the deposit of 7½ million dollars of the Ford Motor Co. in the Union Guardian Trust Co., nor would he put any money in the proposed mortgage company. He indicated furthermore, Mr. Ballantine said, that he would withdraw the deposit of the Ford Motor Co. in the First National Bank of Detroit amounting to \$25,000,000 tomorrow morning.

In the light of those developments it became evident that it would be impossible for the banking and business interests of Detroit to organize the proposed mortgage company in order to meet the situation. It was generally agreed by the bankers in Detroit, Mr. Ballantine said, that the Union Guardian Trust Co. would not open tomorrow morning.

Is that a fairly correct statement of the attitude of you, your father, or the company, or of all combined, as stated to Mr. Ballantine?

Mr. FORD. There was a lot of discussion. Mr. Henry Ford felt that when he had the suggestion put to him, that additional cash capital be put up, he felt that they were asking too much, and he then said that there would be no subordination or furnishing of additional capital. Then the discussion revolved around whether the Union Guardian Bank could open or not. I think they said it could not open because the Union Guardian Trust Co.—or could not open bearing a similar name, of being affiliated with the group, the Guardian National Bank of Commerce, that it could not stand it if allowed to open. And they said that the bank should not be opened. And then discussion was had as to opening the First National Bank. I think Mr. Henry Ford had the feeling that there might have been some desire on somebody's part to open that bank and not to allow the Union Guardian Bank to open. He thought they should both be treated alike in every instance.

Mr. PECORA. That is, if one should be closed the other should be closed, or if one should remain open the other should remain open?

Mr. FORD. That was his feeling.

Mr. PECORA. What, if anything, was said about the withdrawal of a deposit of about \$25,000,000 from the First National Bank of Detroit by the Ford Motor Co.?

Mr. FORD. Mr. Henry Ford made that statement. That is, he impressed upon Mr. Ballantine his feeling that the two banks should be treated alike. He was quite incensed over the way the thing turned out at the end; I mean this suggestion about a great amount of additional help after what we thought was a lot of help that had been given, that we had given in the past, and so he made that statement.

Mr. PECORA. And that was the end of the road at that time, wasn't it?

Mr. FORD. It was so far as he was concerned.

Mr. PECORA. And the following day, namely, Tuesday, February 14, all the banks in Michigan were closed under the moratorium or bank holiday declared by the Governor of Michigan, is that right?

Mr. FORD. That was on Monday, and did you say the 13th?

Mr. PECORA. No; the 14th.

Mr. FORD. Tuesday morning, the 14th?

Mr. PECORA. Yes.

Mr. FORD. That night I think the Governor of Michigan issued the bank holiday proclamation.

Senator COUZENS. So in effect, after you had about 57½ million dollars in the two large banks—and you testified on yesterday that you had 32½ million dollars in the Guardian Bank, I believe?

Mr. FORD. I did not say anything about the other bank.

Senator COUZENS. I know; but in view of the testimony given before you must have had about 25 million dollars in the First National Bank of Detroit.

Mr. FORD. I can tell you about that if you wish it.

Senator COUZENS. If you will.

Mr. FORD. The First National account, the Trust Co. account, and the Peoples Wayne County Bank of Dearborn, which was an affiliate, was about 18 million dollars.

Senator COUZENS. Then it was not nearly 25 million dollars as testified before the R.F.C.?

Mr. FORD. Those were doubtless general remarks.

Senator COUZENS. All right.

Mr. PECORA. Now, Mr. Ford, is there anything else you would like to tell this committee with regard either to the negotiations with the R.F.C. had in January and February of last year, or—

Mr. FORD (interposing). That I had?

Mr. PECORA. That were had in behalf of the Guardian Detroit Union Group, Inc.

Mr. FORD. No, sir; I haven't anything else to suggest. I think it could be told much better by the men who dealt directly with them.

Mr. PECORA. Have you told the committee now substantially everything that is without your knowledge concerning those negotiations, any part that you played in them to the extent of conferring with officers of the group about those negotiations?

Mr. FORD. I cannot remember anything else at this time.

Mr. PECORA. Is there anything you want to tell this committee with regard to the group itself, or its unit banks and their management and operation during the years 1929, 1930, 1931, and 1932?

Mr. FORD. Not that I can think of.

Senator COUZENS. Mr. Ford, I am a little uncertain about how the record stands here. In answer to a query by Mr. Pecora as to whether you were a director of any corporation or institution outside of these subsidiaries of the Ford Motor Co. and the Guardian Group, I understand your answer was "no." Is that quite correct?

Mr. FORD. Well, it isn't correct. But I do not believe I can remember any more at this time, or didn't at that time at least.

Senator COUZENS. Can you remember any more now?

Mr. FORD. Well, there is the Ford Motor Co. of England—

Senator COUZENS [interposing]. I mean outside of the Ford Motor Co. or any of its subsidiaries, were you a director in any other banks outside of the units of the group?

Mr. FORD. The Dearborn State Bank.

Senator COUZENS. That was not a member of the group?

Mr. FORD. No.

Mr. PECORA. Any other bank besides that?

Mr. FORD. No.

Senator COUZENS. You are not a director in any bank besides that?

Mr. FORD. No, sir.

Senator COUZENS. Thank you.

Mr. PECORA. Mr. Ford, is there anything else you want to tell this committee without being asked questions specifically?

Mr. FORD. I do not believe so. I think the whole situation is one of great trial, which we tried to face the best way we could.

Senator COUZENS. Mr. Ford, after your experience have you any opinion with respect to the efficacy of group banking?

Mr. FORD. Well, there may be some values in group banking, and there may be some very definite faults connected with it, as in the instance of the Union Guardian Trust Co. being frozen, and the opinion that it was because it was an affiliate of the Union Bank of Commerce. If so, that was very decidedly a definite handicap. But it was a matter of opinion at the time. It may be the bank could have opened up and gone right along, but one does not know that. On the other hand, the Group Co., as to a lot of the smaller unit banks up in the State, tided them over or carried them along by reason of the assistance they gave them when perhaps they would have had to fail otherwise. It is a very involved question, and I have never studied it from that angle myself.

Senator COUZENS. Well, Mr. Ford, after having weighed the defects and the good points of group banking, which outweighs the other?

Mr. FORD. Well, of course, we were going through such abnormal times it is very difficult to say.

Senator COUZENS. I mean, now looking to the future.

Mr. FORD. Oh, looking to the future?

Senator COUZENS. Yes.

Mr. FORD. Well, I would rather not give an opinion. I do not think it would be worth anything.

Senator COUZENS. Suppose you let us be the judges of that.

Mr. FORD. I really could not say. As I see the situation there are things that come up, and without a terrific analysis whether I could say one would outweigh the other, I just don't know.

Senator COUZENS. If you had to start all over again would you prefer to be under the group system or under the individual unit system?

Mr. FORD. If we had to start all over again would it be the individual unit system or the group system?

Senator COUZENS. Yes; based upon your past experience.

Mr. FORD. Well, past experience has been mad, but it may have been on account of economic conditions, that they caused it. I would not blame the group for that.

Senator COUZENS. I am not asking you to blame anybody. This committee is organized for the purpose of recommending the enactment of legislation. I am trying to get your judgment as to whether or not, in your opinion, it would be wise to eliminate group banking in the future.

Mr. FORD. I would not think so. There are group banks existing today, and I think there is one out of the Buffalo district, and a group banking system in Minnesota, and that they are going along. I do not know enough about it, Senator Couzens, to say.

Senator COUZENS. So if you were a legislator you would not approve elimination of group banking?

Mr. FORD. I would have to look into it a lot more thoroughly.

Senator COUZENS. All right.

Mr. PECORA. You would have to have more knowledge on the subject than you now claim to possess, is that it?

Mr. FORD. Yes, sir.

The CHAIRMAN. Mr. Ford, do you favor branch banking?

Mr. FORD. Well, there are several systems of branch banking. The Canadian system, I understand, is very successful, and the English system is very successful. I do not know whether there are other elements which enter into those systems which make them successful or not. It may be their policies are entirely different and more sound, but I don't think so.

Mr. PECORA. Mr. Ford, from time to time the Guardian Detroit Union Group, Inc., acquired different of its banking units.

Mr. FORD. Yes.

Mr. PECORA. Through an exchange of its capital stock for the capital stock of the bank units themselves.

Mr. FORD. Yes.

Mr. PECORA. On those occasions was there brought to your knowledge, as a director of the group, any report showing the specific condition of such a bank as was sought to be acquired?

Mr. FORD. I do not recall having seen any specific written reports, but the various units were discussed as they were acquired, and I depended largely on the advice of auditors and the officers as to the values involved, and the exchange basis on which they were made.

Mr. PECORA. In what form did those auditors give you their information?

Mr. FORD. The auditors did not. It was the officers, and based on auditors' figures. They presented the different banks and the figures that were involved. And as to some of them, perhaps not, and perhaps as to some of them I did not go into the matter at the time, but as to others I did.

Mr. PECORA. Weren't the ratios of exchange of capital stock of the group for the capital stock of the unit bank about to be acquired, sometimes fixed without a previous examination of the unit bank?

Mr. FORD. I do not know that.

Mr. PECORA. That is, without previous examination of the unit bank which was the subject of the acquisition.

Mr. FORD. Do you mean that a bank was acquired without an audit?

Mr. PECORA. Practically that; yes.

Mr. FORD. Well, I don't know. I wouldn't think so, but I don't know.

Mr. PECORA. I think that is all with this witness, Mr. Chairman.

The CHAIRMAN. You may be excused, Mr. Ford.

Mr. FORD. I beg pardon?

The CHAIRMAN. I say, you may be excused. That is all.

Mr. FORD. I thank you.

(Thereupon, Mr. Ford was excused.)

Mr. PECORA. Is Mr. Leyburn here?

Mr. LEYBURN. Yes, sir.

Mr. PECORA. Will you resume the stand, Mr. Leyburn?

TESTIMONY OF ALFRED P. LEYBURN—Resumed

Mr. PECORA. Mr. Leyburn, as you know and as the committee knows, and as I guess the whole country knows, all banks were closed by Executive order of the President last March.

Mr. LEYBURN. Yes, sir.

Mr. PECORA. And that included all of the unit banks of the Guardian Detroit Union Group, Inc.

Mr. LEYBURN. Yes, sir.

Mr. PECORA. Since then have any of those unit banks been permitted to reopen?

Mr. LEYBURN. By reorganization; yes.

Mr. PECORA. By reorganization.

Mr. LEYBURN. With the exception of two of them. I can give you a list of those if you want it.

Mr. PECORA. Will you please do so.

Mr. LEYBURN. These figures I am now going to give you are about 3 weeks old and it may be that some bank has been reopened since then. I can give you the names and the terms on which they were reorganized.

Mr. PECORA. Please do so.

Mr. LEYBURN. The Grand Rapids National Bank in December of 1932 had deposits approximating 16 million dollars. It has been reorganized on a 50-percent waiver with the aid of the R.F.C. And when I say on the basis of a 50-percent waiver, that means that the depositors receive an immediate credit of 50 cents on the dollar, and they have to gamble on the rest. The other part takes out the undesirable assets. The National Bank of Ionia in December of 1932 had deposits of approximately \$1,100,000. It is still in the hands of the conservator, but they hope to reorganize on a 45-percent basis. The Union Peoples National Bank of Jackson had deposits in December of 1932 of about 7½ million dollars. They reorganized August 1, 1933, with the help of the R.F.C., and depositors received 30 cents on the dollar. The Capital National Bank of Lansing, Mich., had deposits in December 1932 of about 13 million dollars. The bank is still in the hands of the conservator, but hopes to reorganize with the aid of the R.F.C. on a 40-percent basis. The City National Bank & Trust Co. of Battle Creek had deposits of about \$1,525,000. It has since been reorganized with the help of the R.F.C. on a 55-percent basis. The First National Bank & Trust Co. of Port Huron had deposits of about 9 million dollars. That opened after the bank holiday, and they obtained some capital from the R.F.C., being opened on a 100-percent basis. The Union Industrial Bank & Union Industrial Trust Co. of Flint had assets in 1932 of about

15 million dollars. They have a plan, approved, to reorganize on a 45-percent basis. The First National Bank of Kalamazoo opened after the holiday, and also the Second National Bank of Saginaw, and some new money was put into that bank. And the City National Bank & Trust Co. of Battle Creek also opened after the holiday, and some R.F.C. money went into that bank.

The CHAIRMAN. Mr. Leyburn, what did you mean by a 25-percent basis?

Mr. LEYBURN. I didn't say 25 percent.

The CHAIRMAN. I thought you said something about a 25-percent basis.

Mr. LEYBURN. It was a 30-percent basis in the case of the Union Peoples National Bank of Jackson, Mich.

Mr. PECORA. What did you mean by that?

Mr. LEYBURN. I thought I had already explained that fully, but will try to do so again. It means that the depositors receive an immediate credit of 30 cents on the dollar, and that the other 70 cents was used to remove undesirable assets from the bank. What the depositor will get out of that depends upon the condition of the undesirable stuff. You might call that a composition, or a waiver of deposits, is what we always called it. Now, as to the Union Trust Co. of Detroit—

Mr. PECORA. You mean the Union Guardian Trust Co.?

Mr. LEYBURN. Yes. I do not think any attempt has been made to reorganize that company. As a matter of fact, it would take a Houdini to open that bank.

Mr. PECORA. What did you say?

Mr. LEYBURN. It would take a Houdini to open that bank.

Mr. PECORA. But Houdini is dead.

Mr. LEYBURN. And so is the bank. [Laughter.]

Mr. PECORA. All right. Go ahead.

Mr. LEYBURN. I think I have covered all the banks. Of course, there are some State banks in the group that I did not have anything to do with. I do not know what happened to them. Now, that is the picture. You could talk forever on the details as to the banks being bad, but that is the statement. Now, you might take the case of the bank with payment of 30 cents on the dollar, and this little Governor Green Bank of Ionia, that he claimed was never a liability on the group, and that it was always a good bank and still would be open, after the bank holiday—but I believe I told you about that.

Mr. PECORA. Repeat what did happen to that bank.

Mr. LEYBURN. It is in the hands of a conservator, and I do not think it has opened yet. But a plan has been approved by which, if the R.F.C. comes to their support, the depositors will waive about 55 percent and get an immediate credit of 45 cents on the dollar. Then you also must consider that there were other banks in Michigan that were overhanging this situation and that did not come into the group. There was the Bank of Saginaw, and it had deposits of over 10 million dollars, and I do not think that bank has opened yet. Then in the case of the Grand Rapids Savings Bank, it had deposits of about 12 million dollars, which is Senator Vandenberg's bank, and that has been reorganized on a 50-percent basis.

Senator COUZENS. Those banks are not members of the group?

Mr. LEYBURN. No, sir. And the old Merchants Bank of Battle-creek is another one, and that has been reorganized.

Mr. PECORA. Mr. Leyburn, I understand that the allegation has been made and given publication in Detroit substantially to the effect that the Guardian National Bank of Commerce, and other banks in the group, were not permitted to reopen because of some plot that has been referred to as a Wall Street plot. Do you know anything about that?

Mr. LEYBURN. Only what I have heard through reading the papers and all. I have heard that, of course.

Senator COUZENS. Well, that wouldn't be evidence.

Mr. PECORA. Do you know anything about any such plot?

Mr. LEYBURN. No; I do not. I think it is a wonderful fairy tale if you want to know my thought about it.

Mr. PECORA. I think that is all for Mr. Leyburn.

Mr. LEYBURN. I should like to make a statement, if you don't mind?

Mr. PECORA. All right.

Mr. LEYBURN. Is that agreeable?

Mr. PECORA. Yes.

Mr. LEYBURN. I stated in my testimony the other day that approximately 149,000 shares of Guardian Stock was held as collateral, and that after the bank did not open it would be a loss of about 1½ million dollars. That loss would run higher than that, because loans were made on that stock at \$50, and in some cases maybe as high as \$100, and it was the policy of the Group never to sell any loan collateralized by their stock. I want to correct that statement to that extent.

Now, I presume this is my last appearance before your committee, and I want to leave with this situation corrected: The Government, and I mean by "Government" the Treasury Department and the R.F.C., have been accused of being the big bad wolf, and of coming up into the State of Michigan on a cold, dark night and slaying virgin and innocent lambs. As a matter of fact, the Government gave those banks every support, and I was up there and doing all I could, but I don't know whether they would say that was a good influence or not. [Laughter.] But I do not think that a single witness would dare come before you and say the Government did not help them in every conceivable way. The fact of the matter is that the most of that complaint comes from some politicians who are trying to make political pawns out of some depositors. That is the chief reason—present company excepted, Senator Couzens. But I think it is an insult to the people of Michigan for anyone to think that they do not understand some of the stuff that is being passed out on this subject. Many of the people of Michigan already know, and others are going to know, the truth, and they will decide who was right and who was wrong, and exactly why the banks failed. As a matter of fact, the failure of the Group was due to three things: First, there was the matter of the management, and you saw how in the set-up of the Group, the Union Trust Co.—

Mr. PECORA (interposing). Do you mean the Union Guardian Trust Co.?

Mr. LEYBURN. Yes, sir.

Mr. PECORA. What was the second reason?

Mr. LEYBURN. The taking of the heavy loss on the Keane-Higbie Co., that they took over, and of the American State Bank, and the heavy obligations of the Group itself, they all contributed to the downfall, practically 15 million dollars.

Mr. PECORA. Do you think the dividend-paying policy of the Group or of the units was a sound one?

Mr. LEYBURN. No, sir.

Mr. PECORA. What is your opinion about that?

Mr. LEYBURN. About the payment of dividends?

Mr. PECORA. Yes.

Mr. LEYBURN. It was absolutely unwarranted from a legal as well as a business standpoint, even if someone told them to pay them.

Mr. PECORA. Have you any opinions to express to this committee in the light of your experience as a national bank examiner and a chief national bank examiner, on the question of the merits or demerits of group banking?

Mr. LEYBURN. Well, now, when I tell you that I am not referring to any group except this one, because I presume group banking could be run good like anything else, if you had good management. But as conducted by these two groups in Detroit, I think it was vicious. I would personally rather see branch banking than this kind of banking. But that is my personal view and not from headquarters.

Mr. PECORA. Yes; we understand that you are now expressing your personal view.

Mr. LEYBURN. Yes, sir.

Senator COUZENS. Mr. Leyburn, I should like to know what your interpretation is of the failure of the office of the Comptroller of the Currency during the years 1931 and 1932, and more particularly when you were sending in those bad reports as to banks, as to the cause of their failure to act.

Mr. LEYBURN. Now, do you mean as to the matter of failure of management?

Senator COUZENS. Well, you were sending in over the years 1930, 1931, and 1932, particularly, I might say, reports of the condition of those units of the Guardian Detroit Union Group, Inc., and we have no evidence here as to any action ever having been taken by the Comptroller of the Currency. What is your interpretation of the failure of the Comptroller of the Currency to act on all those numerous reports that were being received by his office?

Mr. LEYBURN. It was because he was told by the higher command—

Senator COUZENS (interposing). Are you now going to testify of your own knowledge, or are you guessing?

Mr. LEYBURN. From my own knowledge.

Senator COUZENS. All right. Go ahead.

Mr. LEYBURN. The Comptroller of the Currency was instructed by the higher command not to do anything to rock the boat, and not to have any more bank failures.

Senator COUZENS. Was that the reason for his ignoring all those reports you were sending in about the weak condition of those units?

Mr. LEYBURN. I am of that opinion, Senator Couzens; yes, sir. Then, when it comes to the question of management, if we are to speak about that, there was no way until the new National Bank Act was passed in 1933 whereby the Comptroller of the Currency had the power to remove an officer for bad banking.

Mr. PECORA. That is, you mean prior to the amendment of the National Banking Act, contained in the provision enacted in 1933, there was nothing which empowered the Comptroller of the Currency to take any steps toward removing officers or directors of a national bank for mismanagement or unwise management or anything of that kind?

Mr. LEYBURN. That is absolutely correct. The only alternative that he had was under section 5239 to forfeit the charter of an offending bank, which, of course, meant that he would have to file a suit in the Federal court of the district in which the bank was located, stating why he wanted the charter taken away. And then there would be a hearing, maybe within 10 days. Meanwhile there would be a run on the bank. And I might cite you a case where that was done once: The First National Bank of Hagerstown, Md., about 1919 or 1920, was run by a crowd named Wingard, or something of that kind, and they violated every section of the National Banking Act and looked for more to violate. And they practically told the Comptroller's office to go to the devil, that he could not do anything with them. I might say that that bank was on a sort of special list, and in the year 1931 the Comptroller of the Currency decided he would forfeit the charter of the bank. So he brought suit in the Federal court. That brought a run on the bank, and then he appointed a receiver. Then during the 10 days set for the hearing and before the hearing came up, officers and directors of that bank came on here to Washington and conferred with the Attorney General and the Comptroller of the Currency, and stated they would resign and sell their stock to responsible interests if the Comptroller would withdraw the suit. So he agreed to that, and the bank was turned back to those men about 10 days later. Now, I might say that that bank never recovered from that shock. Later it closed, and it is my opinion it is closed today. In other words, it sounds good to say that you can do anything you want to with an offending bank, but if you give them the medicine it kills the patient. In other words, that was the experience there.

Mr. PECORA. In other words, the medicine was worse than the disease.

Mr. LEYBURN. Yes, sir.

The CHAIRMAN. Speaking about the power of the Comptroller of the Currency, if you as a bank examiner go into a bank and find the bank is violating the law in the conduct of its business, violating the regulations laid down by the Comptroller, you have the right to immediately take charge of that bank?

Mr. LEYBURN. No, sir; you are wrong, Senator.

The CHAIRMAN. I have known of its being done over and over again.

Mr. LEYBURN. I think you will find there were other circumstances.

The CHAIRMAN. But if a bank, for instance, loans to one borrower in excess of the amount which the law says it shall loan to a borrower, you walk into that bank as a bank examiner and find that they are violating that law, and you can immediately close that bank?

Mr. LEYBURN. No, sir.

The CHAIRMAN. And say, "Don't you open this bank any more. I will take charge of it."

Mr. LEYBURN. Senator, you are wrong.

The CHAIRMAN. It has been done over and over again.

Mr. LEYBURN. There were other circumstances. You would have to invoke the law I just read to you, Senator, in order to do that.

The CHAIRMAN. And forfeit the charter?

Mr. LEYBURN. That is the only way you would have to do it, in a Federal court.

The CHAIRMAN. All over the country receivers have been appointed for banks when they have been found to be violating the banking law.

Mr. LEYBURN. Not for that. You will find it was a bad bank, and probably insolvent.

The CHAIRMAN. They can do that if they find it insolvent.

Mr. LEYBURN. If they find it insolvent.

The CHAIRMAN. A lot of these banks were found to be insolvent.

Mr. LEYBURN. That is correct.

The CHAIRMAN. You could have had a receiver appointed for them at once. The comptroller could have done that.

Mr. LEYBURN. If it is insolvent; yes.

The CHAIRMAN. You admit that?

Mr. LEYBURN. If it is insolvent.

The CHAIRMAN. And they have done it the other way, too. Wherever they have found them violating a law, a receiver has been named for them at once.

Mr. LEYBURN. A national bank—

The CHAIRMAN. Usually the bank examiner is named receiver for the time being.

You speak about the "high command." You mean the Secretary of the Treasury?

Mr. LEYBURN. I mean the Secretary of the Treasury and the White House, either one or both. That is not the present Secretary of the Treasury.

The CHAIRMAN. I know.

Senator COUZENS. You said either one or both. Do you know whether it was one or both?

Mr. LEYBURN. It was both.

Senator COUZENS. Both the President of the United States and the Secretary of the Treasury at the time?

Mr. LEYBURN. Yes, sir.

Mr. PECORA. Does an examiner, when he finds any situation in a national bank which is in violation of law, have the power and the right himself, upon his initiative, and without instructions or directions from the Comptroller, to take possession of the bank?

Mr. LEYBURN. Not for a violation of law. You have to go through the Federal court.

The CHAIRMAN. He has to do it through the Comptroller, but the Comptroller has the power.

Mr. LEYBURN. What do you mean? To take away the charter of the bank?

Mr. PECORA. He can take charge of the bank.

Mr. LEYBURN. I cannot see under what law he could take charge of the bank if the bank is not insolvent. Some State laws probably are that way, but I do not know of any such case with a national bank. But you will find that a bad bank has all the violations of law, as you say. There is no question about that.

In section 30 of the Banking Act of 1933 the power is conferred to take out any officer or director for violation of law or mismanagement.

Mr. PECORA. That is the law of 1933?

Mr. LEYBURN. Yes; the banking law of 1933.

Mr. PECORA. He can only do that through a proceeding instituted through the Federal Reserve Board for the particular district in which the bank is located.

Mr. LEYBURN. In other words, the accused man has a hearing before the Federal Reserve Board.

Mr. PECORA. The Comptroller of the Currency makes charges against an officer or officers of such bank, and those charges are read before the Federal Reserve Board of the district and, after hearing, determined by the Federal Reserve Board.

Mr. LEYBURN. Yes.

Mr. PECORA. That, in substance, is the provision embodied in the 1933 Banking Act.

Mr. LEYBURN. That is about the size of it. That has teeth in it, if you want to use it. There is no question about that.

Mr. PECORA. Would you care to advance any opinion to this committee with regard to the sufficiency of that provision of the law?

Mr. LEYBURN. I believe that is all right, but there are other sections of that act that are very ambiguous, especially that one with regard to affiliates. Under this provision, an affiliate, it seems to me, is anything in the bank, except the president's wife's first husband. But that ought to be clarified.

The CHAIRMAN. You mean there ought to be a definition of what an affiliate is?

Mr. LEYBURN. I think it ought to be clarified as to just what is an affiliate.

Senator COUZENS. Because of your position, Mr. Leyburn, you do not have to answer this question if you do not desire to. But what would you think of prohibiting bank examiners from joining banks after they leave the Government service, for a period of 2 years?

Mr. LEYBURN. I am glad you asked me that question. I shall be glad to answer it. A man coming into the service as an examiner, on account of the salary, and everything else, has nothing to look forward to unless he can go into a bank. Frequently an attorney

will win a case against the Standard Oil Co. or the American Telephone & Telegraph Co., and that corporation will hire him. I would hate to see that done, because I think it would ruin the morale of the force, and we have some wonderful men in the examining division. If you have in mind passing such a law, I think it would be better to prohibit him from going to the bank which he examined; and, with the approval of the Comptroller of the Currency, he could go with a bank.

Senator COUZENS. In other words, you would prohibit a bank examiner, for a period of 2 years after leaving the service, from going to any bank which he had examined without the consent of the Comptroller of the Currency?

Mr. LEYBURN. No; I did not say that. If you mean to pass such a law, that would be the best way to do it.

Senator COUZENS. Would you be in favor of such a law?

Mr. LEYBURN. No; I would not.

Senator COUZENS. You believe it ought to stand as it is?

Mr. LEYBURN. I think so, except to provide that it may be done with the approval of the Comptroller of the Currency.

Senator COUZENS. In other words, he can go to any bank that wants to employ him so long as he gets the approval of the Comptroller of the Currency?

Mr. LEYBURN. That would be my idea.

Mr. PECORA. What objection do you see to a proviso that no such employment shall be legal within a period of 2 years?

Mr. LEYBURN. If a bank wants somebody to go with them, they do not want to wait for 2 years. In numerous cases examiners have gone into bad situations in banks and worked them out, to the credit of the depositors. If somebody wanted to hire you, they would not want to wait for 2 years. They want you now.

Senator COUZENS. I could express an opinion, but I am not on the witness stand.

Mr. LEYBURN. I would like to have your opinion just the same.

Mr. PECORA. I think that is all of this witness. Is there anything else you wanted to tell the committee?

Mr. LEYBURN. No. I think I have spoken my piece. I will add this, that the Comptroller's Office has not muzzled me in any way, shape, or form, and has given me, and also this committee, the best of cooperation.

The CHAIRMAN. Very well, Mr. Leyburn. I believe that is all.

Mr. LEYBURN. Is that all for me on this case?

Mr. PECORA. Yes.

Mr. LEYBURN. Thank you.

The CHAIRMAN. The committee will take a recess until 2 o'clock. (Whereupon, at 12:45 p.m., Friday, January 12, 1934, a recess was taken until 2 p.m.)

AFTER RECESS

The subcommittee reconvened at the expiration of the recess, at 2 p.m. Friday, January 12, 1934.

The CHAIRMAN. The committee will come to order. Proceed, Mr. Pecora.

Mr. PECORA. Mr. Bryan.

TESTIMONY OF CHARLES A. BRYAN, 1209 FEDERAL RESERVE BUILDING, CHICAGO, ILL.

The CHAIRMAN. You solemnly swear that you will tell the truth, the whole truth, and nothing but the truth, regarding the matters now under investigation by the committee. So help you God.

Mr. BRYAN. I do, sir.

Mr. PECORA. What is your full name and address?

Mr. BRYAN. Charles A. Bryan, 1209 Federal Reserve Building, Chicago, Ill.

Mr. PECORA. What is your present business or occupation?

Mr. BRYAN. I am a national-bank examiner.

Mr. PECORA. When did you become a national-bank examiner for the first time?

Mr. BRYAN. In August of 1924.

Mr. PECORA. How long did you continue serving as a national-bank examiner from that time on?

Mr. BRYAN. Until 1929.

Mr. PECORA. What did you do in 1929?

Mr. BRYAN. I went with the Guardian Detroit Union Group on December 1.

Mr. PECORA. 1929?

Mr. BRYAN. Yes, sir.

Mr. PECORA. In what capacity?

Mr. BRYAN. As the Group examiner.

Mr. PECORA. How long did you continue in the service of the Guardian Detroit Union Group, Inc.?

Mr. BRYAN. Until December 26, 1931.

Mr. PECORA. Then what did you do?

Mr. BRYAN. I then became vice president of the Capitol National Bank of Lansing, one of the units of the Group.

Mr. PECORA. Did you continue to serve in that capacity for some period of time?

Mr. BRYAN. Until the Michigan holiday.

Mr. PECORA. That is, until the Michigan banking holiday?

Mr. BRYAN. Yes, sir.

Mr. PECORA. That was declared on February 14, 1933.

Mr. BRYAN. Yes, sir.

Senator COUZENS. Before you became a bank examiner, what was your experience to qualify you to become a bank examiner?

Mr. BRYAN. I had had 16 years' practical experience in a bank.

Senator COUZENS. Where?

Mr. BRYAN. In Idaho.

Mr. PECORA. Who was your immediate superior when you first entered the employ of the Group on December 1, 1929?

Mr. BRYAN. Mr. B. K. Patterson.

Mr. PECORA. Had you previously known him?

Mr. BRYAN. Yes; Mr. Patterson and I were friends in Pocatello, Idaho, as young men. He was in one of the banks and I was in the other one.

Mr. PECORA. Had you served in the same area, or district, or jurisdiction as national bank examiners?

Mr. BRYAN. Yes, sir. I first was assigned to the ninth district at Minneapolis, under Chief Examiner Harris, and Mr. Patterson later became chief national bank examiner of that district, and when he was transferred to Chicago as chief examiner I was transferred to Chicago as one of the examiners, with my headquarters at Detroit, Mich.

Mr. PECORA. Who first offered you employment with the group?

Mr. BRYAN. Mr. Patterson.

Mr. PECORA. Shortly prior to your resignation as a national bank examiner?

Mr. BRYAN. Yes, sir.

Mr. PECORA. What duties were assigned to you from the outset after you entered the employ of the group?

Mr. BRYAN. To examine the unit banks of the group.

Mr. PECORA. All the unit banks, both State and national?

Mr. BRYAN. Yes, sir.

Mr. PECORA. How many unit banks were there in the group, both State and national in character?

Mr. BRYAN. They were changing, Mr. Pecora, by consolidations. From 18 to 22, I should say.

Mr. PECORA. Were there 18 when you entered the employ of the group in December 1929?

Mr. BRYAN. Approximately that number, Mr. Pecora. They were being acquired, and then they were being consolidated.

Mr. PECORA. How many examinations of each banking unit of the group were you to make?

Mr. BRYAN. It was the policy of the group to make 2 examinations of each bank a year, but there were 2 examiners, Mr. Penningrath and myself, and then there was a corps of assistants of about 8 men.

Mr. PECORA. You and Mr. Penningrath were in charge of that corps of assistants?

Mr. BRYAN. Yes, sir.

Mr. PECORA. Had Mr. Penningrath been a national-bank examiner prior to his employment by the Group?

Mr. BRYAN. Yes, sir.

Mr. PECORA. Had you served with him in the same district as a national-bank examiner?

Mr. BRYAN. Mr. Penningrath started out as an assistant in Minneapolis, and he served under me from time to time as my assistant, and he later became an examiner in that district.

Mr. PECORA. Did you and Mr. Penningrath and your corps of eight assistants actually make, from the time that you entered the employ of the Group, two examinations per year of each of the unit banks of the Group?

Mr. BRYAN. I cannot say as to that. That was the intention, and I think it was pretty largely carried out. For instance, I may have examined Jackson the first part of the year, and he may have examined it the second part of the year. I would not keep any record of that.

Mr. PECORA. Did you make such examinations in the same fashion in which you had been accustomed to make examinations of national banks for the Comptroller of the Currency?

Mr. BRYAN. As an examiner, Mr. Pecora, I have always felt it my duty to obtain the facts as I saw them in the examination of the bank, and as a national-bank examiner I submitted that to the Comptroller for him to do as he saw fit. When I went with the Group I assumed that my position was to determine the condition of the banks for Mr. Lord, who was in charge of the Group. I considered that he would want to know the facts.

Mr. PECORA. The actual facts?

Mr. BRYAN. The actual facts of the banks as they existed, and I examined them on that basis. I have always been considered, I believe, a severe examiner, and I examined the banks of the Group on the same basis that I would examine a national bank.

Mr. PECORA. That is, as a national-bank examiner?

Mr. BRYAN. Yes, sir.

Mr. PECORA. In what form did you make to Mr. Lord, or to any other executive officer or officers of the group, a report of your various examinations of the unit banks from time to time?

Mr. BRYAN. We made a complete report, which followed along the lines of the national-bank examinations, criticizing each loan. I think we went down to loans of \$500 and over and all loans under that that were past due. I think you would find in my reports that each loan that was subject to criticism would be listed in those reports. Bonds and all the assets were listed and classified as to slow, doubtful, or loss. That report was typed in the group office, and 3 copies were made, 1 for the bank, 1 for the general files, which were under Mr. Patterson, and a copy for Mr. Lord. In the copies that went to Mr. Patterson and Mr. Lord was a confidential section regarding the management of the bank, the conditions as we found them, and any items that we believed were subject to criticism and should not be imparted to the bank—that is, the unit bank.

Mr. PECORA. Have you ever had access to any of those written reports of your examinations?

Mr. BRYAN. I had access to them all the time that I was with the group. They were in the files. Of course they were kept under lock and key, so that everyone could not have access to them, but I had access to them.

Mr. PECORA. Did you know in whose immediate custody they were kept?

Mr. BRYAN. I cannot recall the girl's name. There was a young lady employed that had the keys to the file. I should say they were under the custody, though, of Mr. Patterson, and he had his girl in charge of them.

Mr. PECORA. Take the year 1930, which was the first full calendar year in which you worked as an examiner for the group.

Mr. BRYAN. Yes, sir.

Mr. PECORA. Do you recall whether or not you examined, at least once in that year, every one of the unit banks of the group?

Mr. BRYAN. No, sir; not every one of them.

Mr. PECORA. How many of them did you examine in that year?

Mr. BRYAN. Oh, I should say possibly 15 or 20 examinations. I would do special work. I might be in the office for 2 weeks or a month. I remember at one time I installed a complete record in the

units of all of their bonds for the Guardian Group files, and that took quite a lot of time.

Mr. PECORA. Do you recall the names of the banks that you examined for the group in the year 1930?

Mr. BRYAN. The Michigan Industrial Bank—

Senator COUZENS. Of Flint?

Mr. BRYAN. No; of Detroit, Senator; the Guardian Trust Co. That was before the consolidation. The Grand Rapids Trust Co.; I believe the National Bank of Commerce in that year.

Mr. PECORA. What is that?

Mr. BRYAN. I believe the National Bank of Commerce, Mr. Pecora. I cannot remember, though.

Senator COUZENS. Of Detroit?

Mr. BRYAN. Yes, sir. And in the summer of 1930, I believe it was, I examined the Bank of Detroit before consolidation with the Guardian Bank. In the latter part of the year I believe I examined the Guardian Bank.

Senator COUZENS. That was before it was a national bank?

Mr. BRYAN. Yes, sir.

Mr. PECORA. The Guardian Detroit Bank, so-called?

Mr. BRYAN. Yes, sir.

Mr. PECORA. That had been made up of the consolidation of the Guardian Bank with the Bank of Detroit.

Mr. BRYAN. That was after the consolidation, I believe.

Mr. PECORA. Yes. Are there any others that you recall you examined in that year 1930?

Mr. BRYAN. I know that I did, but I cannot recall them right now. Port Huron, I believe, was made the early part of 1930.

The CHAIRMAN. How long does it take to examine a bank?

Mr. BRYAN. As a national bank examiner, Senator, for instance, the bank at Jackson, would take, with the same crew, possibly a week—probably not quite that long. I spent at least 2 full weeks there with my crew. I made a somewhat different examination. I broke down things that national bank examiners would not do. That is, I would make a set-up of loans, we will say, from a dollar up to \$500, to see what percentage were concentrated in small loans, and what percentage in large loans. We used to do that with the individual ledgers. Our earnings report was somewhat more complete than a national bank examiner's report. We worked the thing out on a percentage basis, and we went into the general methods of keeping the books somewhat more than a national bank examiner would do.

Mr. PECORA. Do you recall the general nature of the confidential criticism or comments that you made to the officers of the group in the reports of your examinations of these banks in 1930?

Mr. BRYAN. I found practically all the unit banks in an undesirable condition. I am not saying they were insolvent, by any means, but with many slow loans, many fixed loans that had been carried for a period of years, many policy loans to friends and—

Mr. PECORA. Officers?

Mr. BRYAN. Officers and directors; many collateral loans that were undercollateralized. In my judgment, when the collateral on a loan reaches a certain point it is the duty of the bank to collect that loan, or get more collateral. There were many undercollateralized loans.

My confidential section would criticize the slow and doubtful loans. It would criticize the management. Some reference would probably be made to the earnings of the bank, the policy, and things of that nature.

Mr. PECORA. Did you find as a result of your examination of these unit banks for the year 1930 that there had been a reluctance or an unwillingness to set up reserves against losses?

Mr. BRYAN. That was more of an operating problem. The group was on approval basis, and they had men who were expert in that phase of the business that took up those matters with them. Our work was more in the nature of appraising the assets. I cannot say that there was a particular reluctance to set up reserves. The attitude of the banker was the same toward the group examiner that it usually is toward the National or State examiner.

Mr. PECORA. What was that attitude as you found it?

Mr. BRYAN. That the position of the examiner is uncalled for or too severe or not correct. Very few bankers believe that a bank examiner knows anything about his business.

Mr. PECORA. And vice versa?

Mr. BRYAN. Yes, sir. I think the results of the past few years indicate that somebody has been wrong.

Mr. PECORA. Now, when you made your second examination of these banks as the examiner for the group, do you recall whether or not you found that any of the unsatisfactory conditions that you had pointed out and reported upon in the report of your prior examination had been attended to?

Mr. BRYAN. Well, of course, in some individual instances correction had been made, but—

Mr. PECORA (interposing). In the main what was the situation in that respect?

Mr. BRYAN. Generally conditions were getting worse, and naturally the banks grew worse from year to year, in my opinion. These things were brought up to Mr. Lord in the report. I personally talked to him about my reports. At one time each bank had to submit to the group each month a list of the criticized assets as shown by our reports and just what correction had been made. That is, if in January John Jones' loan was \$5,000, he had to show what it was in February and in March. That was not very effective, however.

Then later on the banks were divided somewhat. I know after I became connected with the bank at Lansing Mr. Patterson was designated to sort of father our bank, and he would come down once a week, meet with the executive committee, discuss the things that he thought needed attention, but conditions were changing so rapidly and—

Mr. PECORA (interposing). And changing for the worse?

Mr. BRYAN. For the worse. And I think in the main the bankers failed to correct the position—

Mr. PECORA (interposing). Correct the positions that you had criticized?

Mr. BRYAN. Yes, sir.

Mr. PECORA. Do you know, Mr. Bryan, what action, if any, was taken by the officers of the group or by the board of directors of

the group to bring about correction or remedying of the conditions that you criticized with regard to any of the unit banks?

Mr. BRYAN. Well, it was a very peculiar situation. I was just an employee. It was very embarrassing to me in a way—I did not feel it, however, but some people might have who are very sensitive—to go in and criticize. We will use as an example Mr. Reynolds' bank at Jackson. I submitted my report to the Guardian Group, and Mr. Reynolds sat on top on this committee. Well, that was rather an embarrassing situation.

Senator COUZENS. In other words, you were criticizing your chiefs?

Mr. BRYAN. That is right, sir. And, of course, that life of a bank examiner is not an easy one, just going around and criticizing people, and especially when you are criticizing your chief it does not make you very popular.

Mr. PECORA. Nor comfortable?

Mr. BRYAN. Well, I slept pretty well. I felt I was right. I was honestly and sincerely trying to do something to help the group. That was my position, and if I lost my job for it, why, that is all right, too.

Mr. PECORA. To what do you ascribe the failure to correct the conditions which you criticized from time to time in your report and examinations of the unit banks of the group?

Mr. BRYAN. Well, fear on the part of the management of the group, which I think was probably brought about by the bankers of the various units. For instance, Mr. Herb Reynolds—I will use him again—is a very prominent man in the city of Jackson. Now, Mr. Reynolds would not like to have all of these things called to the group's attention—my severity and the condition of his bank—and he had a great deal of power in his community. I think that the group officers were reluctant to be too aggressive, because they did not want to displease Mr. Reynolds and lose his interest in the group, because they were largely dependent upon the success in that bank because of Mr. Reynolds.

In other words, if the group did not have the faith and confidence of the individual cities in which it operated, its success would be a failure. But if the assets of the banks continued to just deteriorate, why, its failure was imminent anyway.

Mr. PECORA. You spoke before of criticizing loans that you termed "policy loans" that you found in these various unit banks from time to time. Now, just for the record, what do you mean by so-called "policy loans"? I know what you mean, but I want the record to show, so there will be no misunderstanding of your testimony.

Mr. BRYAN. In Lansing, for instance, I am familiar with that situation because I was in the bank for over a year. We had many large loans, \$50,000 and \$60,000, made to friends of Mr. Gorman or the other directors. They were undercollateral. They had been in the bank for years. Mr. Gorman was probably reluctant to collect those loans.

I remember one loan to a former State treasurer of Michigan in our bank that was a very large sum, undercollateral, been there for years.

Mr. PECORA. Had been there while the borrower was State treasurer?

Mr. BRYAN. Well, I think so. I think it came in at that time, although I cannot say. It was in the bank for a long time before I was there.

Mr. PECORA. What was the size of that loan?

Mr. BRYAN. I think it was over a hundred thousand dollars, and we did get it reduced below that amount.

Mr. PECORA. To what extent did you find it to be undercollateralized?

Mr. BRYAN. Well, part of it was contingent upon real estate, and of course it would be hard to place a value on that. It was unsatisfactory collateral and very much undercollateral. I should say if you got 25 or 30 thousand dollars out of it from the collateral you would do well.

Mr. PECORA. Do you remember the name of that borrower?

Mr. BRYAN. I hate to state. I just cannot recall the names. I would hate to give the name of someone and be incorrect on it.

Mr. PECORA. Haven't you any clear recollection of that individual loan account?

Mr. BRYAN. No; I have not.

(At this point Mr. Bryan conferred with Senator Couzens.)

As I recall, it was Frank McKay, but I am not positive.

Mr. PECORA. That is your present best recollection?

Mr. BRYAN. Yes, sir.

Mr. PECORA. What other of these so-called "policy loans" made to friends of the officers or directors of the banks did you find had been made, we will say, to friends of directors and also held public office? Did you find many of them?

Mr. BRYAN. Well, of course, there were not—I am speaking of Lansing now—there were not a lot of loans to people who held public office, although there were more than that. But that is the most glaring one I can think of right now. There was a loan to a real estate company in Lansing, the Michigan Mortgage Co., of which Director Ballantine was the guiding spirit. He was a director of our bank. He afterwards was removed as a director or was not reelected, or resigned, I don't remember the facts, because it was before I went there. He afterwards went into bankruptcy. There was a very heavy loss on that loan.

Mr. PECORA. Did you find a considerable number of these so-called "policy loans" to have been made by all of the unit banks as a result of your examinations of 1930?

Mr. BRYAN. Yes. And most of them were made prior to the group acquiring the banks.

The CHAIRMAN. Did you find instances where in your judgment the group paid too much for these banks, or more than they were justified in paying?

Mr. BRYAN. In my judgment they paid far too much, Senator.

Mr. PECORA. For all of them?

Mr. BRYAN. Yes; I should say all of them. In fact, I think some of those banks were acquired before they were even examined by our examining division.

Mr. PECORA. And the purchase price or basis of acquisition determined upon before any examination?

Mr. BRYAN. Yes, sir; that is my understanding of it.

Mr. PECORA. Did you at any time in the years 1930 and 1931 make any examination for the group of a bank that was either in process of acquisition by the group or was in contemplation of being acquired by the group?

Mr. BRYAN. No, I didn't. You see, I came a little late to get in on banks they were acquiring. They acquired Ionia in 1930, I believe, beginning of the year, and I didn't make that examination.

Mr. PECORA. Do you know whether anybody made an examination of the Ionia bank in behalf of the group prior to the acquisition of the bank by the group?

Mr. BRYAN. Mr. Penningroth examined it, I think, prior to the acquisition, but I don't know whether a deal had already been made for the bank before that examination.

Mr. PECORA. As a result of examinations that you made for the group of the banks which it had acquired, did your examinations of those unit banks indicate to you that their acquisition on the terms on which they were acquired by the group was bad judgment?

Mr. BRYAN. Well, as we look back, yes. Of course, I think perhaps the officers of the Guardian Group realized that there were slow loans and doubtful loans in those banks, but many of them had a long record of operation, they had become established in the community, they were large banks generally, had adequate earnings under normal conditions. I believe that we owned in most instances the largest and the best banks of each town in which we operated and I think that they thought that that good will and the history behind those banks would offset any poor assets, and I think they were naturally—none of us realized the severity of the depression at that time. Naturally they thought that that would terminate sooner than it did, and any poor assets could be earned out or collected.

Mr. PECORA. It has been disclosed by evidence presented to this committee that many of these unit banks of the group held large blocks of the group stock as collateral to loans.

Mr. BRYAN. Yes, sir.

Mr. PECORA. Did you find that condition prevalent?

Mr. BRYAN. Yes, sir; but that was not as prevalent in the unit banks out-State as in Detroit.

Mr. PECORA. That is, outside of the—

Mr. BRYAN. I mean by out-State, not in Detroit. I mean in the State of Michigan.

Mr. PECORA. In the State but outside of the city of Detroit?

Mr. BRYAN. Yes, sir. I think naturally the large concentration was in the Detroit banks.

Mr. PECORA. And who were the borrowers who put up a large part of the group stock for such loans with the group banks?

Mr. BRYAN. Well, in my opinion, they were officers and employees of the banks, and also individuals in the community. In the out-State banks I don't think there was an unusual concentration to officers and employees. There may have been stenographers and people like that who had smaller loans secured by group stock, but the large deals were not in the unit banks. They were too small.

Mr. PECORA. Did you find in your examination of the unit banks in the city of Detroit that you made for the group such a concentra-

tion in loan accounts of group stock as collateral as caused you to criticize those loans and that collateral?

Mr. BRYAN. Yes, sir.

Mr. PECORA. And did you criticize them in the report you made to the group of your examinations?

Mr. BRYAN. As I remember now, I did, Mr. Pecora; but in 1930 our group stock was worth a great deal more, and my examining was done largely in 1930. Of course, the stock fell very rapidly after that.

Mr. PECORA. Do you know what action, if any, was taken by the group or the group banks in which you found such a heavy concentration of group stock as collateral for loans, in order to remedy that condition?

Mr. BRYAN. To my knowledge, no particular action was taken.

Mr. PECORA. Did you find, as a result of subsequent examinations, that not only was no particular action taken, but that as time went on the amount of such concentration of group stock as collateral for loans in the group banks increased?

Mr. BRYAN. Yes; the stock did increase.

Mr. PECORA. To a substantial degree?

Mr. BRYAN. Yes, sir.

Mr. PECORA. Did you call attention to that?

Mr. BRYAN. As I recall, yes; it was in the report. I cannot remember any specific case now. Of course, they were trying to bolster up those loans, and in many instances I don't believe the loan itself was increased, although there may have been more Guardian stock at the subsequent examination. I believe the records show that the total amount increased, the aggregate, from the national bank examiner's report as introduced here.

The CHAIRMAN. Did the employees of these banks acquire this group stock to a considerable extent?

Mr. BRYAN. Well, yes. Yes; I think so. Of course, for instance, a stenographer in the bank, she would not attempt to buy 300 or 400 shares, or anything like that. She might buy 10 shares or 20, or something like that.

The CHAIRMAN. They bought that on time usually?

Mr. BRYAN. There were many small loans that I think probably started that way, Senator.

The CHAIRMAN. What did they pay generally for it, do you know?

Mr. BRYAN. Well, it started pretty high. Some of them paid a very large price for it, and as the stock went down they may have acquired it at a lower price, of course. Those who were with the original organization probably paid pretty high prices for it.

The CHAIRMAN. What do you call "pretty high prices"?

Mr. BRYAN. Between two and three hundred dollars a share, I would say was too high.

The CHAIRMAN. Yes.

Mr. PECORA. Did you find among the loans that you criticized in your examination of the group banks many loans made to business concerns or enterprises with which any of the officers or directors of the unit bank making the loans was connected?

Mr. BRYAN. Yes. However, in the out-State banks I think most of those came to the banks before the group acquired the banks.

For instance, the Michigan mortgage loan had been in the Capital National Bank for years.

Mr. PECORA. Did you discuss with Mr. Lord, as the executive head of the group, on every occasion when you made reports of your examinations of the group banks, the conditions that you found and criticized in the banks?

Mr. BRYAN. No, sir; I did not.

Mr. PECORA. Then it required some special occasion to bring you into contact or discussion with Mr. Lord?

Mr. BRYAN. Mr. Lord, of course, was very busy and it was not easy to see him. I submitted my reports to Mr. Patterson, and I think in every instance he discussed them with Mr. Lord.

Mr. PECORA. In your presence?

Mr. BRYAN. No, sir. In some instances in my presence.

Mr. PECORA. What were the matters of criticism which you made which led to a direct discussion by you of those items of criticism with Mr. Lord?

Mr. BRYAN. Why, the banks that in my judgment had the poorest assets and the poorest management. I recall discussing Port Huron with him.

Mr. PECORA. What was the gist of that discussion?

Mr. BRYAN. I was very much concerned about the condition of the assets of the bank, and very much dissatisfied with the management. Some time after that Mr. Lord advised me that he wanted me to go to Port Huron and run the bank.

Mr. PECORA. Did you do that?

Mr. BRYAN. Well, I got all ready to, and then he went up to discuss it with directors, as I understand, and I had been so severe with the bank that they were not impressed with my ability so they did not want me.

Mr. PECORA. And hence you did not go there?

Mr. BRYAN. So I did not go.

Mr. PECORA. Did you go to the Iona Bank at any time?

Mr. BRYAN. In the latter part of 1930 I examined the Guardian Bank, and we met with all the active officers and some of the directors. Those meetings were held at night and they were very late, and I severely criticized the bank, the lack of aggressiveness in correcting the assets, and I was rewarded with being made assistant to the president of the bank, and I was in the bank for 6 months. My job was to try and collect these slow assets.

Mr. PECORA. With what success did you meet?

Mr. BRYAN. I think it was a dismal failure myself.

Mr. PECORA. Who was the president to whom you were made assistant?

Mr. BRYAN. Mr. Lord.

Mr. PECORA. Oh, you mean assistant to the president of the Group?

Mr. BRYAN. No; he was president of the bank, too.

Mr. PECORA. You mean the Guardian Bank of Detroit, too?

Mr. BRYAN. I don't want to alibi myself too much, but I think there was lack of cooperation among the officers of that bank. I specifically mention the credit man, Mr. Frank Evans, and Mr. Cantor. I don't think they liked the arrangement. I believe that

they thought it was a personal affront to them, and I don't think they were willing to work in harmony. Mr. James Walsh, who was in the bank, cooperated with me and did everything he could to help me, and after 6 months I was sent to Ionia.

Mr. PECORA. Tell us under what circumstances you were sent to the Bank of Ionia.

Mr. BRYAN. Following the examination in May of that year—

Mr. PECORA (interposing). That is 1931?

Mr. BRYAN. Yes, sir. By the National Banking Department, they found the bank in a very poor condition, borrowing money, not accomplishing what they should, and Mr. Lord asked me to go down there and get some liquidation, and I went down and went to work in a quite aggressive manner for Ionia. My one big mistake—there was quite a large loan to a gentleman down there who was running the newspaper, and he came in to interview me, and while he was in there I thought I would interview him about this loan, and it was not a very happy meeting. I was talking about money.

Mr. PECORA. What was he talking about?

Mr. BRYAN. Well, it was not money.

Mr. PECORA. Lack of money?

Mr. BRYAN. Lack of money, I should say. I later found out that—at least I was informed that the paper that he was running was owned by Governor Green, who was president of the bank that I was in. And Governor Green took exception to my severity in trying to collect these loans and get security and place the bank in condition, and I also stopped Governor Green and any of the directors from borrowing money, and so the paper came out and tried to discredit me.

Mr. PECORA. You mean the local paper?

Mr. BRYAN. The local paper, the man who owed this debt, and while he did not refer to me directly, he said that "Sandstone Ike shirt grabber was going to leave Ionia."

Mr. PECORA. "Sandstone Ike, the short grabber"?

Mr. BRYAN. Ike—I get the "Ike" from this [pointing to his nose].

Mr. PECORA. You assumed he was referring to you?

Mr. BRYAN. I assumed that; yes.

Mr. PECORA. Had you grabbed his shirt?

Mr. BRYAN. I tried to, but I didn't get ahold of it. But I understand that Governor Green took the matter up with Mr. Lord and wanted to have me removed because of my policies in the matter, and I prepared to go back to Detroit.

Governor Green at that time—and I presume it is still true—had a great deal of prestige, and every time something would come up of an unpleasant nature he would threaten to resign, and that had the desired effect for the Governor.

Mr. PECORA. What was that desired effect?

Mr. BRYAN. He didn't want to resign.

Mr. PECORA. I mean he didn't have to resign because his complaint was heeded?

Mr. BRYAN. That is right.

Mr. PECORA. And his complaint was aimed at your activities?

Mr. BRYAN. That is right. I went into the bank to get what personal things I had there—

Mr. PECORA (interposing). Including your shirt?

Mr. BRYAN. Including the other shirt—and Mr. Robertson was talking to the Governor over the phone, and he said, "Mr. Bryan is here, and he is just leaving", and he told Mr. Robertson, he says, "You get that man out of there within 30 minutes or I will resign", and I didn't want to see a catastrophe, so I left town.

Mr. PECORA. Do you recall what the capital and surplus was of the Ionia Bank in March 1930?

Mr. BRYAN. No; I could not answer that at all, Mr. Pecora. I have seen too many of them since then.

Mr. PECORA. I think it was \$326,000, approximately. That includes \$26,000 of undivided profits. It was made up of \$150,000 capital, surplus \$150,000, and undivided profits net \$26,252.83, as appears from a report of condition of the National Bank of Ionia as of the close of business on March 27, 1930, filed with the Comptroller of the Currency in response to the call of the Comptroller for a statement of condition, and which report I have before me.

The CHAIRMAN. That was pretty good surplus, wasn't it?

Mr. BRYAN. I would say that was adequate capital for a bank of that size in Ionia.

Mr. PECORA. Well, I find listed in this report of condition, under the caption schedule A, which called for the names of officers and directors, liabilities if any, and shares owned, that liabilities of various officers and directors in the bank at that time, to the bank, aggregated \$157,928.42, which was close to 50 percent of the capital and surplus of the bank; that is, with its undivided profits. Did you find that that condition was generally maintained during the years 1930 and 1931?

Mr. BRYAN. Yes, sir. That bank, particularly the officers and directors, had used their privileges directly and indirectly.

Mr. PECORA. Now, I find also in this same report of condition of the Ionia Bank as of March 27, 1930, in addition to that direct liability on the part of officers and directors, there was a further liability as endorsers or guarantors of other loans, in the aggregate of \$128,821.50. Do you know whether or not that condition was corrected?

Mr. BRYAN. Not to any material extent I should say. Governor Green's company, the Ypsilanti Reed Furniture Co., I think, had a direct loan and then their employees had many loans in that bank, collateralized with the stock of the Ypsilanti Reed Furniture Co.

Senator COUZENS. Mr. Green was not the Governor of the State that year, was he?

Mr. BRYAN. I do not believe he was, Senator, but he still enjoyed the privileges and all the things that go with that honor. He was the head man of Ionia.

The CHAIRMAN. What became of that company?

Mr. BRYAN. I don't know. I understand the Reconstruction Finance Corporation just recently bailed them out, but I do not know that. I just heard it reported. They made reed furniture.

The CHAIRMAN. The R.F.C. did not make the loans directly?

Mr. BRYAN. I don't know that. I have just heard that as a rumor, that the R.F.C. had loaned some money to them to clean up their bank debts. I cannot verify that at all. They certainly needed some new capital.

Mr. PECORA. How long did you remain in the bank at Ionia?

Mr. BRYAN. Two weeks. I might state that there was a State bank at Ypsilanti that was closed.

Mr. PECORA. As of what time are you speaking now?

Mr. BRYAN. I cannot recall. I think it was probably in 1930 or early in 1931. It was closed, and a bank in which the governor was heavily interested. I think he owned a small amount of the stock personally, and then I think he had a corporation that owned a lot of the stock. It was his corporation. I do not know why he would do that. And he wanted the group to reorganize that bank and take it over, and they sent me down to examine the bank. I did not think it was advisable and did not recommend it, and it was not done.

Mr. PECORA. Now, did you have any similar experience with regard to any other unit bank of the group?

Mr. BRYAN. Do you mean where I went in to work?

Mr. PECORA. Yes.

Mr. BRYAN. I did not get to go to Port Huron. I was in the Guardian for 6 months, and in Ionia 2 weeks, and in Lansing for a little over a year.

Mr. PECORA. What were the circumstances of your going to the bank at Lansing?

Mr. BRYAN. It was the night before Christmas, and—
[Laughter.] Well, there had been a bank failure in Lansing, about a \$9,000,000 bank, the American. The City National Bank was in trouble, having withdrawals, and Mr. Lord and Mr. Patterson and some of the other higher officers of the group went down to see what could be done, because we had our own bank there. And it was finally decided to take over the City National Bank.

Mr. PECORA. What year was that?

Mr. BRYAN. 1931.

Mr. PECORA. On December 24, 1931.

Mr. BRYAN. And so, the night of Christmas, they called me to come down and handle the physical end of the taking over of that bank. So I took 8 or 10 assistants with me, and on—well, the 26th was on Saturday, I believe—that deal was closed on Saturday, and on Sunday we moved the bank from its quarters to the Capital National Bank, and opened up on Monday morning. On December 26—and I brought this all on myself, too—I said to Mr. Lord: "Mr. Lord, Mr. Gorman is not capable of handling this big bank. and—"

Mr. PECORA (interposing). Was he then the president of the bank?

Mr. BRYAN. Yes, sir. He was then president of the Capital National Bank. I said, "Someone should be put in here to handle these loans."

And so Mr. Gorman and Mr. Patterson came into the room, and Mr. Lord said, "Frank, this is going to be a big bank now, and I think you should devote your time to holding the deposits. You know the people and you should devote your time to holding their business, and I think we ought to take the loans away from you. and I think we ought to put someone in here to handle them."

There would be about \$9,000,000 of loans. Mr. Gorman said that was perfectly satisfactory to him, and inquired to know who he was

going to put in, and Mr. Lord sprung a surprise and said: "We will put Mr. Bryan in."

So that day I was elected vice president, and stayed there from then on.

SENATOR COUZENS. What was the bank that had some difficulty about employing a national bank examiner from Chicago to operate it?

MR. BRYAN. That was Mr. Rimer. And it was the City National Bank that we took over. He did not want to take that new job, but they made it so advantageous to him that he did take it.

SENATOR COUZENS. Did he take the \$25,000 too?

MR. BRYAN. Well, that was the contract. He was there 6 weeks. He knew the condition of the bank, but they insisted that he take that position.

SENATOR COUZENS. That was before your group took it over, is that it?

MR. BRYAN. Yes, sir. And when we took it over he left. He is now president of the Live Stock National Bank of Chicago, which is owned by men down East.

MR. PECORA. Did you make any examination of any of the unit banks in 1932?

MR. BRYAN. Only the Capital National Bank. I was in that.

SENATOR COUZENS. Yes; but he asked if you made any examination of unit banks?

MR. BRYAN. No; I examined no bank.

MR. PECORA. Do you know whether anyone made any examination of unit banks of the group in the year 1932 in behalf of the group?

MR. BRYAN. I think not. The examining force was discontinued in 1931.

MR. PECORA. Do you know the reason for that?

MR. BRYAN. I do not know the reason, but I had my own ideas about it.

MR. PECORA. What are they?

MR. BRYAN. Well, I think that the unit bankers were not in favor of having their banks examined. I do not think that they felt it was worth what it was costing them, what it was costing the group. And, frankly, I do not think they liked to have their condition disclosed all the time.

MR. PECORA. Mr. Chairman, I have no further questions to ask Mr. Bryan. Well, Mr. Bryan, have you any statement or observations you would like to make to the subcommittee?

MR. BRYAN. Why, in line with Mr. Leyburn's testimony I should like to give my own views. Senator Couzens, in regard to the matter that you asked about this morning, about employing national bank examiners in banks. Probably this is a little bit personal because I am a national bank examiner, but let us assume I lost my position as a national bank examiner. I should have to be barred for 2 years about the work, for I do not know anything other than banking. I think bank examiners can be of very material aid in banking work. There have been quite a few successful bankers that were originally national bank examiners. And I think banks would be helped in many instances by having the services of such men. I think Mr. Rimer is an excellent banker. I think that what Mr.

Leyburn suggested, with the approval of the Comptroller of the Currency, it would be all right.

Senator COUZENS. Of course, you know there has been testimony introduced here to show that one bank examiner wrote to the Comptroller of the Currency that Mr. Wiggin was the greatest banker in America, and that America ought to be proud to have him at the head of the banking business of America. Then another bank examiner wrote the Comptroller of the Currency that he ought to be lenient with a certain bank, and that bank examiner was afterwards employed by that bank. I do not know how many more cases there are of that kind.

Mr. BRYAN. Well, Senator Couzens, there are all kinds of bank examiners, like there is in the case of bankers.

Senator COUZENS. And politicians.

Mr. BRYAN. I should like to see the service put on a basis where bank examiners would not want to leave it, that they would want to make it their life work. I think the turn-over has been too great. I should like to see the salaries increased so that the men could get along better. I do not think they are paid enough, and if they were paid higher salaries you could hire better men and let them stay in it as their life work. I think it would be better for the banks and better for the Comptroller's office. Under the fee system which we have, it is self-sustaining.

Senator COUZENS. Do you mean by the fee system that you charge banks for examinations?

Mr. BRYAN. Yes, sir. And it could be self-sustaining, and I think in the long run it would be much more beneficial to the bankers if the men were paid properly. We contact prominent men in this work, and we have to associate with them to some extent.

Senator COUZENS. And that is dangerous.

Mr. BRYAN. Yes; but it cannot always be avoided, and we cannot live like someone working on the street at a dollar a day. In regard to the future of banking, I think in the main we have got to provide much better management. I think the results have shown that bank management has been very poor.

Mr. PECORA. The management of banks?

Mr. BRYAN. Yes, sir. I had a man in to see me the other day who was complaining because the Comptroller of the Currency had written to him saying that he would have to change the management in the bank. He said:

Why, I don't see any occasion for that. This man is very popular. He is the mayor of our town and has been for 14 years.

I replied:

What does he know about the technical side of banking?

He said to me:

Oh, he doesn't know anything.

I said:

What is his business?

And he replied:

He is a plumber.

Mr. PECORA. Well, that might qualify him to fix leaks. [Laughter.]

Mr. BRYAN. Yes. I think that within the operation of banks the policy loans should be discontinued. I think the technical men in banks fear their positions because directors want to favor their companies and friends and things of that kind. It has been very detrimental to the banking business, and I certainly do not want to see this thing happen again, I mean the thing that has happened in the last few years.

Senator COUZENS. Don't you think the Comptroller of the Currency ought to be given more power under the law to regulate banks?

Mr. BRYAN. Yes, sir. I think the laws have not been strict enough, and there has been a tendency to promise many things, to correct this and that, and to temporize. I think we have delayed too much in some cases. And I think with better bank examiners going in and analyzing the situations they would see that correction is made. Anyone can go in and examine a bank and write a report, but it is getting results that counts. And I might say that one makes himself very unpopular when he is honestly and sincerely trying to properly examine banks.

Mr. PECORA. Unpopular with whom?

Mr. BRYAN. With bankers.

Mr. PECORA. Have you anything else to present to the subcommittee, Mr. Bryan?

Mr. BRYAN. I think that is all. Am I now excused?

Mr. PECORA. Yes, sir.

Mr. BRYAN. Finally excused?

The CHAIRMAN. Yes; you will be excused, Mr. Bryan.
(Thereupon the witness was excused).

Mr. PECORA. Call Mr. McKee.

The CHAIRMAN. Mr. McKee, come forward, hold up your right hand, and be sworn. You solemnly swear that you will tell the truth, the whole truth, and nothing but the truth, regarding the matters now under investigation by the subcommittee. So help you God.

Mr. MCKEE. I do.

TESTIMONY OF JOHN K. MCKEE, CHIEF OF THE EXAMINING DIVISION, RECONSTRUCTION FINANCE CORPORATION, WASHINGTON, D.C.

Mr. PECORA. Mr. McKee, what is your full name, address, and business or occupation?

Mr. MCKEE. John K. McKee, chief of examining division, Reconstruction Finance Corporation; residence now, Washington, D.C.

Mr. PECORA. How long have you been chief of the examining division of the Reconstruction Finance Corporation?

Mr. MCKEE. Since the spring of 1933.

Senator COUZENS. Did you say the spring of 1933?

Mr. MCKEE. Yes, sir.

Mr. PECORA. Less than a year?

Mr. MCKEE. Yes, sir.

Mr. PECORA. Were you connected with the R.F.C. prior to your becoming chief of its examining division?

Mr. MCKEE. That is correct.

Mr. PECORA. When did your affiliation or connection with the R.F.C. commence, and in what capacities have you served the R.F.C.?

Mr. MCKEE. I began in February of 1932 as an examiner. And I was assistant chief of the examining division from June of 1932 until May of 1933, when I was made chief of the examining division.

Senator COUZENS. What was your experience before you went to the R.F.C.?

Mr. MCKEE. I had been in the banking business since 1910, up to 1932.

Senator COUZENS. Where?

Mr. MCKEE. In Pittsburgh.

Mr. PECORA. Mr. McKee, do you recall an application having been made to the R.F.C. for a loan to the Union Guardian Trust Co. of Detroit some time in 1932?

Mr. MCKEE. I do. But I was not familiar with the application.

Mr. PECORA. Did you have anything to do with that initial application?

Mr. MCKEE. I did not.

Mr. PECORA. Did you have anything to do as an examiner or as an official of the Examining Division of the R.F.C., with any applications which were made to the R.F.C. either by the Guardian Detroit Union Group, Inc., or any of the banking units of that group?

Mr. MCKEE. Not until January of 1933.

Mr. PECORA. Will you tell the committee in your own way the experiences that you had or the actions taken beginning with January of 1933 in connection with such application?

Mr. MCKEE. May I first state for your record that the Reconstruction Finance Corporation is privileged to make loans on full and adequate security. The making of such loans is through an established agency system throughout the United States, 33 in number. The procedure for applications for loans is that they shall come through the medium of the agency division or the agency in that particular territory. And an application comes in with such recommendation to our office in Washington. In several particular cases, deserving, probably, ultra-confidential relations, the applicant has come direct to Washington for relief. That was unusual, however. On January 26, 1933, I was called into the office of Governor Talley, about 3 p.m.—

Senator COUZENS (interposing). Tell us who Governor Talley is.

Mr. MCKEE. He was assistant to the directors of the Reconstruction Finance Corporation. In a brief way Governor Talley discussed this Detroit situation with me. He had just completed a conference, lasting the most of the day, with individuals representing the Union Guardian Group, who desired—

Mr. PECORA (interposing). You mean the Guardian Detroit Union Group, don't you?

Mr. MCKEE. That is correct. Who desired that somebody be sent to Michigan to survey their situation, and to ascertain whether or

not a loan could be made of sufficient size to pay off the depositors of the Union Guardian Trust Co. Our coversation was brief. I was instructed by the Board to proceed to Detroit, with full authority to recommend such loan as I saw fit to make, and to take with me such men as I deemed necessary to complete the operation. We started off with a skeleton force that evening, and arrived Saturday morning, January 27, and about noon on Saturday met with the principals of this Group in the Union Guardian Trust Building.

Mr. PECORA. Who were those principals?

Mr. MCKEE. Mr. Kanzler, Mr. Lord, and Mr. Longley. It was confined to those three. Mr. Kanzler and Mr. Longley, together with Mr. Leyburn, had been with Governor Talley the day before. Mr. Leyburn joined our little group there, and we started in at the high points of the situation. Finally we got down to a basis to decide what was the best thing to do with the entire situation, the idea in this application being predicated upon the embarrassing condition then existing of the Union Guardian Trust Co. The idea of the Group representatives was that, due to the size of this bank and the earning power of its fiduciary capacity, they desired to continue its identity for that earning power, but they did desire to transfer the deposit liability of that Group to the Guardian National Bank of Commerce.

Now, as you gentlemen may know, a trust company institution in the State of Michigan is not authorized to accept deposits. So that the only deposit liability of the Union Guardian Trust Co. was that in the form of trust deposits—I mean trust-company deposits—or certificates of deposit. The character of the deposits of the Union Guardian Trust Co., amounting to something like 20 or 25 million dollars at that time, were corporate funds or municipal funds deposited with the bank primarily for the interest they paid on such deposits. In starting into this situation we knew before we left Washington of the existing commitment the R.F.C. had made, and the proceeds that had been disbursed for the benefit of this Union Group. And we did know and did anticipate, although I was not familiar with it, the office had anticipated probable further loans to this company, knowing of its embarrassing condition since July of 1932. So we had well scanned from time to time the collateral that was pledged to us. Previously we had had two men go to Detroit and make a very careful examination of the collateral on the ground; and we had, from the information in our possession, the review and were satisfied that the loan on the collateral was about as much as we could possibly make.

The CHAIRMAN. How much was that loan?

Mr. MCKEE. At that time I think it was in the neighborhood of 9 or 10 million dollars. However, a commitment had been made for a greater amount, but it had not been fully withdrawn. We started into this problem in a careful way. We discussed it with the principals of the group, who apparently had been doing everything they could to correct the situation, with which they were familiar. And through this medium of relief at the time they contemplated correcting the picture of every bank that needed correction in the group.

Their first idea was to transfer or sell assets—undesirable assets—that had theretofore been criticized by the examiners, from this group of banks to the Union Guardian Trust Co., and have the Union Guardian Trust Co. borrow all the money, a sufficient amount to repay the banks for those assets, as well as to borrow enough money to discharge their full deposit liability. After a conference of an hour or so, probably longer, it was then thought it would be a rather embarrassing thing on that unit to carry such a burden of borrowed money, and I believe it was my suggestion that they should organize a mortgage company, a mortgage loan company, which could take title to those assets—

Mr. PECORA (interposing). Of all the banking units?

Mr. MCKEE. Of the units of the group, providing that the assets would represent mortgage loans at least in excess of 50 percent of the portfolio, and subscribe to the capital stock of such mortgage loan company in the amount of 5 million dollars. That seemed to strike a harmonious chord. I conferred with our board, and they said they would consider such an application. It was necessary for them to get in touch with all of the banks of the group, to present the collateral. The various officers of the banks came in there with their collateral in pouches, and we attempted, working night and day there, to prepare a schedule commensurate with our usual form of application. We had men there, 10 or 12 of them, grading collateral all through the night. And on February 6th I arrived back in Washington with the conclusions and that first application. When those gentlemen had appeared in Washington they said they had something in the neighborhood of assets of around 95 or 96 million dollars.

Mr. PECORA. Face value?

Mr. MCKEE. Face value of assets to pledge for the loan, and that the loan required would be in the neighborhood of 65 million dollars. Of course, in those assets they had a contingent liability, or some of them had—well, one in fact was a possible assessment against the shareholders of the Union Guardian Group, if and when needed, and they were willing to pledge it. The conclusions and the grading of those assets in the first form of application, were brought to Washington and presented to our board.

Mr. PECORA. What was the summary of that conclusion?

Mr. MCKEE. Will you excuse me if I refresh my memory?

Mr. PECORA. Yes.

Mr. MCKEE (after looking over some papers). The assets offered at that time had a face value of approximately 49 million dollars; that is, exclusively assets taken from the banks. In addition thereto, we would have had 31 million dollars of assets already pledged to us by the group. They had in addition to that equities in the Union Building Co., which was the owner of the building which housed the Union Guardian Trust Co., and three other bank buildings, and other sundry assets, such assets as those of the Congress Corporation, and the free assets left of the Union Guardian Group.

Mr. PECORA. What was the total value of those real-estate equities?

Mr. MCKEE. The real-estate equities were the Union Guardian

Building, or the Union Building Co., which owned this bank building. They carried it on their books at four million and some odd thousand dollars, and it was subject to two prior loans which totaled about \$6,400,000. They had three bank buildings which they acquired through the consolidation, within the limits of Detroit. I think one was outside of the city. They were also offered as collateral. That collateral, minus two buildings, would amount to some \$64,871,000, including the free collateral and that already pledged to us.

May I correct that, please? That was in the neighborhood, counting the buildings in at the face amount as carried on the books, of about \$88,000,000.

Mr. PECORA. That is the face value?

Mr. MCKEE. Yes, sir.

Senator COUZENS. And that included a carrying charge of \$4,000,000 on the Union Building?

Mr. MCKEE. That included that equity; yes.

Senator COUZENS. And the building has been turned over, according to the press, to the second mortgagees?

Mr. MCKEE. I am not familiar with what happened to that.

Senator COUZENS. If that is so, the whole \$4,000,000 is wiped out. There is no equity, because it has gone into the charge of the second mortgagees.

Mr. PECORA. Those real-estate equities included in this gross valuation of \$88,000,000 of assets were taken at book value, not actual market value?

Mr. MCKEE. No; at the carrying value.

Mr. PECORA. What proportion of these face-value assets of \$88,000,000 or thereabouts was considered as actual or market value at that time?

Mr. MCKEE. May I answer that question in this way—that we allocated liberal value to this collateral. In other words, in working on a loan-value basis and on a liquidating-value basis of this collateral we could only find at that time \$20,000,000 in that collateral.

Senator ADAMS. How do you differentiate between what you call liquidating value and loan value?

Mr. MCKEE. On loan value, Senator, we find an appraised value of the property and take a percentage of that. On liquidating value we use what we believe the asset will liquidate for.

Senator ADAMS. Right then.

Mr. MCKEE. That is correct.

Mr. PECORA. How much of a loan was sought by the group at that time against these assets that had a liquidating value of about \$20,000,000?

Senator COUZENS. Before he answers that, Mr. Pecora, I think it would come better in order if he would tell us what that loan value was at that time.

Mr. MCKEE. Approximately \$20,000,000.

Senator COUZENS. I thought you said that was the liquidating value.

Mr. MCKEE. It ran about \$17,000,000.

Senator COUZENS. I do not understand that point. I understood that the liquidating value was lower than the loan value.

Mr. MCKEE. No, Senator; maybe I have not made it clear. For loan value we take the appraisement of an asset. For instance, we have a mortgage of \$4,000 on a house which is worth \$6,500. We will take a percentage, allocate a percentage to it, and call it loan value; but if that house is actually worth \$5,000, that will be the liquidating value of it, or if it is worth \$4,000 that would be the liquidating value of that asset. In other words—

Mr. PECORA. In other words, the loan value is less than the liquidating value?

Mr. MCKEE. Correct.

Mr. PECORA. Let me ask you this question: How large a loan was being sought by the Group at that time, to be secured by its assets, to have a liquidating value of \$20,000,000?

Mr. MCKEE. In order to take those assets and make a pledge to us of them, they required \$49,600,000 loaned on those assets to repay the banks for their capital adjustment.

Mr. PECORA. In other words, about two and a half times the liquidating value of the assets that they had available for collateral?

Mr. MCKEE. Correct.

Senator COUZENS. I am still at a loss, and I want to get this straight, because it was generally reputed at the time, and as I recall from the conference, that you were willing to loan some \$37,000,000 plus on the securities.

Mr. MCKEE. That was a later transaction, Senator.

Senator COUZENS. Oh. I beg your pardon.

Mr. PECORA. When you came back to Washington on February 6, last, with this survey of the situation, what took place?

Mr. MCKEE. We had a special board meeting and the gentlemen representing the units were invited in to tell their story, and then the board went into executive session. I presented this matter and told them how much I was willing to recommend that they loan on these assets.

Senator COUZENS. How much was it?

Mr. MCKEE. I was willing to recommend at that time \$20,000,000.

Senator ADAMS. You were going to clear up to the liquidating value, then;

Mr. MCKEE. Yes, sir; that is correct.

Mr. PECORA. Did you feel that you were as liberal in making such a recommendation as you possibly could be?

Mr. MCKEE. I certainly did.

The CHAIRMAN. That included all the assets of all the members of the Group?

Mr. MCKEE. Just certain of their assets. The board at that time made a commitment of—just before I go any further: It was on all the assets other than those pledged, and then there was \$31,000,000 already pledged, face value of assets of the Guardian Union Trust Co., of which \$15,000,000 was borrowed.

Our board made a commitment of \$45,000,000, taking in the other assets and repaying the other loan. In other words, they

would make a loan of \$45,000,000 if and when the Guardian Trust Co. loan was fully repaid, principal and interest. Their requirements, as I said, were in the neighborhood of \$65,000,000 at that time. We were not told the difference could be made up, but our board was led to believe that Mr. Ford, who had on deposit with the Guardian Trust Co. some seven and a half million dollars, might be willing to subordinate his deposits; and Mr. Ford was not represented directly, other than we believed that Mr. Longley and Mr. Kanzler were closely affiliated with Mr. Ford, and although they held out no promises and had nothing in writing to show that, it was felt at that time that Mr. Ford might subordinate his seven and a half million dollars. It still left a gap which was more than could be reached. I telephoned our men to try to exchange these rejected assets for better assets to see if we could fill up the hole. We did that. We revamped the application, but there was still a hole. Finally, on February 10, I left Washington for Detroit on our final trip before the holidays. We went up there and revamped the whole thing. The Group then were convinced that it was impossible to correct as they wanted to the unit banks, and would have to be satisfied in obtaining sufficient money to bail out the Guardian Union Trust Co. which had an abnormal deposit liability commensurate with its free assets. Its free assets, as reported to us, were about \$12,000,000 face value, and deposit liabilities in the neighborhood of 20 to 25 million dollars.

Mr. PECORA. What was the liquidating value of those free deposits having a face value of \$12,000,000?

Mr. MCKEE. We found later on, Mr. Pecora, that they could not pledge all of that \$12,000,000; that there was only available for pledge about \$7,940,000.

Mr. PECORA. Face value?

Mr. MCKEE. Face value—which had a liquidating value of about \$5,096,000.

The revamping of the last and final application, which we worked on up until the Michigan bank holiday moratorium was declared, was on the basis that assets would be pledged from the following units: the free assets of the Union Trust Co.; the pledged assets of the Union Trust Co.—

Senator COUZENS. You mean, the Guardian Trust Co.?

Mr. MCKEE. Yes, sir; that is correct. The Union Building Co.'s equity in the building; the assets of the Congress Corporation; certain assets of the National Bank of Commerce, and the free assets of the Guardian Union Group.

A commitment was made on assets with a total face of \$64,871,000, which included assets already pledged, as well as the assets to be offered and on which we made a commitment of \$37,720,000.

Mr. PECORA. Just a moment: What was the liquidating value of the \$64,000,000 face value of assets?

Mr. MCKEE. \$37,762,000.

Mr. PECORA. So again the Reconstruction Finance Corporation made a commitment of a loan equal in amount to the full liquidating value of the available assets?

Mr. MCKEE. Correct. The amount required in order to do that correction was \$49,600,000, which left a deficiency of \$11,880,000.

Before I left for Detroit I was told by our president, Mr. Miller, at that time, that there would be a meeting at the White House on Saturday morning; there would be one Friday evening and one on Saturday morning, and for me to take a train and talk to him in the morning, which I did. Mr. Walter Chrysler and Mr. Alfred Sloan—one of the Chrysler Corporation and the other of the General Motors Corporation—were invited to the White House to be advised of the seriousness of the situation in Detroit. I was advised by Mr. Miller, by telephone, Saturday morning, that this meeting had occurred and that Mr. Sloan and Mr. Chrysler both had instructed their local representatives to stand by and meet with me when called, which they did.

The CHAIRMAN. Some gentlemen want to catch a train, and we had better suspend now and have you appear again at the next session. We will take a recess now until next Monday morning at 10 o'clock.

(Whereupon, at 3:45 p.m., the subcommittee adjourned until Monday, January 15, 1934, at 10 a.m.)

STOCK EXCHANGE PRACTICES

MONDAY, JANUARY 15, 1934

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON
BANKING AND CURRENCY,
Washington, D.C.

The subcommittee met at 2 p.m., pursuant to adjournment on Friday, January 12, 1934, in Room No. 301 of the Senate Office Building, Senator Duncan U. Fletcher presiding.

Present: Senators Fletcher (chairman) and Couzens.

Present also: Ferdinand Pecora, counsel to the committee, Julius Silver and David Saperstein, associate counsel to the committee; and Frank J. Meehan, chief statistician to the committee.

The CHAIRMAN. The subcommittee will come to order, please.

TESTIMONY OF JOHN K. MCKEE, CHIEF OF EXAMINING DIVISION, RECONSTRUCTION FINANCE CORPORATION, WASHINGTON, D.C.—Resumed

Mr. PECORA. Mr. McKee, do you recall at what point in your examination of last Friday we suspended, because if you do not I will read the last portion of your testimony in order to bring it back to your mind.

Mr. MCKEE. I think I do, Mr. Pecora.

Mr. PECORA. Well, you had reached the conference or meeting at the Reconstruction Finance Corporation in Washington on February 6, 1933, at which time you reported the result of the survey that you had made out in Detroit of the banking situation. Do you recall that?

Mr. MCKEE. That is correct.

Mr. PECORA. You testified that on February 6 you made certain recommendations to the R.F.C.

Senator COUZENS. Just read where he left off.

Mr. PECORA. All right. I will read the last paragraph or two of your testimony.

Mr. MCKEE. * * * A commitment was made on assets with a total face of \$64,871,000, which included assets already pledged as well as the assets to be offered and on which we made a commitment of \$37,720,000.

Mr. PECORA. Just a moment. What was the liquidating value of the \$64,000,-000 face value of assets?

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Before I left for Detroit I was told by our president, Mr. Miller, at that time, that there would be a meeting at the White House on Saturday morning; there

would be one Friday evening and one on Saturday morning, and for me to take a train and talk to him in the morning, which I did. Mr. Walter Chrysler and Mr. Alfred Sloan, one of the Chrysler Corporation and the other of the General Motors Corporation, were invited to the White House to be advised of the seriousness of the situation in Detroit. I was advised by Mr. Miller, by phone, Saturday morning, that this meeting had occurred and that Mr. Sloan and Mr. Chrysler both had instructed their local representatives to stand by and meet with me when called, which they did.

And that is where you left off. Now, the Saturday morning you referred to in your testimony at this point was Saturday, February 11, 1933, wasn't it?

Mr. MCKEE. That is right.

Mr. PECORA. Will you resume your narration of events at that point and proceed?

Mr. MCKEE. About noon on Saturday I was able to get in contact with Mr. B. E. Hutchison, vice president of the Chrysler Corporation, and Mr. M. L. Prentiss, treasurer of the General Motors Corporation, and invited them to meet with me at the Union Trust Building—no, I will correct that, it was at the Guardian National Bank of Commerce, in the executive quarters. We met there with the officials of the Union Group, and discussed the problem which we had facing us.

Mr. PECORA. Tell the committee the names of the officials of the Group with whom you had this discussion that you are now going to tell us about.

Mr. MCKEE. Mr. Longley, Mr. Kanzler, and Mr. Lord, and I believe at that time Mr. Bodman had been invited in, representing the Group. As I recall it he was the chairman of the Trust Co. The idea of that meeting was to impress on those gentlemen who had no stock interest in those banks, that is, General Motors and the Chrysler Corporation, the seriousness of the situation and the limited time in which correction had to be made.

We had started Saturday afternoon. The banks were closed. We had all day Sunday, and Monday was a legal holiday, and by Tuesday morning at 9 o'clock something had to be done. That conference lasted all of Saturday, Saturday night, and into Sunday morning, and was picked up where it left off on Sunday, and was carried through Sunday and Monday until the time the proclamation was signed by the Governor of the State of Michigan. Added to that group about Sunday night at midnight were others from the outside, and—

Mr. PECORA (interposing). That is, you mean outside of the Guardian Detroit Union Group?

Mr. MCKEE. That is correct.

Mr. PECORA. Who did they represent?

Mr. MCKEE. I do not know that they had any direct interest in the situation. It was Sloan Colt, president of the Bankers Trust Co. of New York; Mr. Traylor of Chicago, who came over when requested, together with his assistant, Mr. Brown, and a couple of junior officers of the Continental Commercial Bank of Chicago.

Senator COUZENS. Who requested Mr. Colt to come over?

Mr. MCKEE. I do not know, Senator Couzens. I believe he was there Sunday morning. My memory is a little hazy on that.

Senator COUZENS. Who requested Mr. Traylor, of the First National Bank of Chicago, to come over?

Mr. MCKEE. I do not know that.

Senator COUZENS. You said previously that these gentlemen, as I understood, had come over when requested. I was wondering who requested them to come over.

Mr. MCKEE. I don't know.

Mr. PECORA. Had you previously been advised that they were to participate in those conferences?

Mr. MCKEE. I had not; no.

Senator COUZENS. Why did you say that they came over when requested?

Mr. MCKEE. Well, I don't know why I said that, Senator Couzens, other than it was just hearsay evidence on my part that somebody had phoned them and requested them to come over. Now, who did it, I don't know.

The CHAIRMAN. Did they say they were requested to be there?

Mr. MCKEE. Not to me, Senator Fletcher.

Mr. PECORA. Well, now, will you give the substance of the discussion that took place among all of you?

Mr. MCKEE. Well, up to that time, gentlemen of the committee, we had got down to a definite decision as to what we could do on what we had to work with. I think it had been very plain in everybody's mind up to that time, that is, as to those representing the Reconstruction Finance Corporation, and as to those representing the group, that we could not do the job; I mean the correcting job that was apparently necessary in the matter of the unit banks at that time, with what assets they had to offer as collateral. And that was laid aside. We started to figure on the final application, which I reported to you the other day, with face value of collateral of \$64,871,000. Now, the proceeds of such a loan was to pay off the entire deposit liability of the Union Trust Co.——

Mr. PECORA (interposing). You mean the Union Guardian Trust Co., do you?

Mr. MCKEE. Yes.

Senator COUZENS. Which amounted to what?

Mr. MCKEE. Will you excuse me if I do not get those names straight. There has been so much over the dam since that time. They were to get from the proceeds of the loan sufficient cash to pay off the deposit liability, or to have the National Bank of Commerce absorb that deposit liability.

Mr. PECORA. What was the aggregate of that deposit liability of the Union Guardian Trust Co.?

Mr. MCKEE. As I recall it their class B trust funds were about 5 million dollars, and the certificates of deposit outstanding were in the neighborhood of 20 million dollars. That may be wrong but that was my understanding. And they had some cash on hand, and some undisbursed part of our previous loan to the Union Guardian Trust Co. So with the proceeds of this loan the Union Guardian Trust Co. would have gone out of the banking business, and certain money would have been taken into the Guardian National Bank of Commerce to further liquify that bank after taking out some notes they were offering in this security. Now, the amount that we recommended on that collateral was \$37,720,000.

Mr. PECORA. That I believe you testified on last Friday was estimated to be the full liquidating value of the collateral they had to offer to the Reconstruction Finance Corporation.

Mr. MCKEE. That is right. And with your permission I can very readily clarify that in your mind at a later time.

Mr. PECORA. All right.

Mr. MCKEE. That money was to go, first, to pay off the present indebtedness of the Union Guardian Trust Co., 15 million dollars, and then sufficient to pay off the deposit liability of 20 million dollars. And then to pay the Guardian National Bank of Commerce for what assets were taken out of their portfolio and offered as a part of the collateral on this pledge.

Now, the total amount required was \$49,600,000, which left a deficiency in the amount we could loan compared to the amount required of \$11,880,000. Our board felt that that was the limit which they could loan on the collateral offered; and there was that gap that had to be made up if and when the Union Guardian Trust Co. was to go out of business the following business day.

Mr. PECORA. That is, to go out of the banking business.

Mr. MCKEE. Yes, to go out of the banking business. We had up until that time—well, I will start with Saturday afternoon. We had been led to believe that \$7,500,000 of the \$11,880,000 would be cared for by the subordination of a deposit already in the Union Guardian Trust Co.

Mr. PECORA. That was a deposit of the Ford Motor Co.?

Mr. MCKEE. Yes, Ford Motor Co.'s money. That left a deficit of \$4,380,000. Now, in order to get this applicant properly capitalized our board reduced the requirement from \$5,000,000 to \$2,000,000.

Mr. PECORA. That is, the capital requirement of what you referred to on last Friday as the proposed mortgage company that was to take over all the available assets of the Guardian Detroit Union Group, and pledge them with the Reconstruction Finance Corporation in return for a loan to be made by the R.F.C. to the proposed mortgage company, and by that mortgage company in turn allocated among the various units of the group?

Mr. MCKEE. That is correct. Now, I will pause right there to clarify in your minds, if necessary, why that mortgage company was necessary.

Mr. PECORA. All right.

Mr. MCKEE. There were the assets owned by the group. There were the affiliated companies owning assets, and somebody had to get title to all those assets in order to pledge them. So it was necessary to transfer them to some vehicle, whether it be the Union Guardian Trust Co. or a newly formed mortgage company, which would have been an eligible applicant under the law.

Mr. PECORA. That was in order to avoid a multiplicity of transactions in obtaining a loan from the R.F.C.?

Mr. MCKEE. That is right, and to get title to the assets that were being pledged. We arrived at this point, of \$4,380,000 deficiency in cash to put the transaction through. Then add to that the \$2,000,000 required capital structure for this vehicle, the mortgage company, which gets you back to \$6,380,000.

We went into the meeting Saturday night short \$6,380,000 from the information then available. That was, of course, counting on the 7½ million dollars. Our endeavors then were to try to sell other parties interested in the success and continuation of Detroit, to take some part, to make some contribution toward the \$6,380,000. And

it was for that purpose that General Motors and Chrysler Corporation were called in on the situation.

Well, they were very fair and lenient, and were willing to listen to the story, and willing to go along. We, later Sunday afternoon—and that was the first time I believe that Wilson Mills, who was the president of the First National Bank of Detroit, knew directly of the obligations that the Union Guardian Group were facing. He operated the largest competitive bank in the city, and he was called in then to see whether his bank could participate in making up some of this deficiency. And may I state right here that it was not at my suggestion, but he was called in to see whether or not he could add to this picture and try to fill up this hole.

Well, that party was made larger Sunday afternoon, and I think it included some other industrialists of Detroit, but I cannot give you their names; and they did everything they could to try to aid this situation. There was in our opinion only a modest amount, compared to what the total amount was, and the amount involved, as far as the collateral offered to us as security was concerned, and we had gone the limit.

Mr. PECORA. Do you recall the names of those other industrial leaders that came into the conference on that Sunday?

Mr. MCKEE. I do not.

Mr. PECORA. Were they industrial leaders in the city of Detroit?

Mr. MCKEE. Yes; I would say they were.

Mr. PECORA. And the whole situation was canvassed in their presence, was it?

Mr. MCKEE. Yes.

Mr. PECORA. And they were asked to—

Mr. MCKEE (continuing). Now, I might qualify that answer a bit: Whether they got the whole story I do not know, but they knew of the emergency and were asked to contribute.

Mr. PECORA. All right. Will you resume your story?

Mr. MCKEE. If I remember correctly, some time Sunday evening we were informed—well, no; no progress was made as to anybody writing tickets of what they would do, and so far as the Reconstruction Finance Corporation was concerned ours was a closed book. We had just gone the limit. It was either Sunday evening or Monday morning we were informed that Mr. Ford had a change of thought about subordination of his deposit. Now, there was no intimation, there was no suggestion coming from the Reconstruction Finance Corporation that Mr. Ford should ever subordinate his deposit.

Mr. PECORA. Who first suggested that?

Mr. MCKEE. It was talked of in front of our board when some members were present representing the group, and while there wasn't anything in writing, and they made no out-and-out promise that Mr. Ford would do this, yet they gave us every indication that it was possible.

Mr. PECORA. They held out the strong hope that it would be accomplished, is that it?

Mr. MCKEE. That it might be accomplished; yes. And we continued the continuous meeting, as I have said, from Saturday afternoon until late Monday night; and when Mr. Ford decided not to subordinate his 7½ million dollars, we then got back to \$11,880,000.

Mr. PECORA. As the gap between the amount required to rehabilitate the banks and the full liquidating value of all the assets available for pledging?

Mr. McKEE. Yes, sir.

Senator COUZENS. And that did not include the \$2,000,000 capital, did it?

Mr. McKEE. No, sir.

Senator COUZENS. And if you add that \$2,000,000 capital, it made a total of \$13,880,000.

Mr. McKEE. Yes; then it was \$13,880,000. Then the party had to be made larger. We tried to see how much of this could be taken by smaller merchants in Detroit, and everybody else, in order to save a bad situation, and our time was getting very limited, the time in which to reach a final settlement of the transaction. After every possible effort made by our board members in Washington, and ourselves in Detroit, trying to assist where we could, it was impossible to fill this hole; and we led right up to the hour of the moratorium, when there just did not seem to be anything else to do.

Mr. PECORA. Mr. McKee, before you leave the testimony with regard to this rather continuous conference, commencing Saturday afternoon and terminating Monday night, can you tell the committee the substance of the reasons advanced by those with whom you conferred, why they could not fill up what you call this gap of \$11,880,000?

Mr. McKEE. Well, I don't know whether I can give you the reasons, Mr. Pecora, or give the committee the reasons, other than that there were only two of the larger industrialists who had not anything at stake, except deposits in the banks, who said they could not see why we could not take them in on a collateral basis with our loan. Well, it just meant that they would take a participation in our loan, which just made that much more loan on the same collateral, and it would make a bad loan for both of us.

Mr. PECORA. It would have made a loan in excess of the liquidating value of the available collateral, is that it?

Mr. McKEE. That is correct. And we were in the position, as I started out my testimony with, with the fact that the Reconstruction Finance Corporation is empowered to make loans on full and adequate security, and they had to stand on that. Now, there was really not much more to that meeting than the conversation that was carried on, and we got no place. And the thing finally died by the lack of \$13,880,000.

Mr. PECORA. Well, did any of those present in that long conference, covering a period of 2 days, offer in any way to raise or to undertake to raise any part of the \$11,880,000 that was needed to bridge the gap?

Senator COUZENS. It was \$13,880,000.

Mr. PECORA. Yes; the \$13,880,000 if you exclude from the reckoning the \$2,000,000 capital of the proposed mortgage company.

Mr. McKEE. Everybody made an effort to accomplish this purpose, but as I recall, at about 2 or 3 o'clock in the morning it turned out that everybody wanted the Reconstruction Finance Corporation to do more. Then I said I wanted to see somebody write a ticket of what they were going to do.

Mr. PECORA. You had present at that conference representatives of two of the larger industrial corporations, being General Motors

and the Chrysler Corporation, and then you said there were other industrial leaders that came into the conference whose names you cannot give us.

Mr. MCKEE. I cannot recall them.

Mr. PECORA. Did any of those gentlemen indicate any willingness on their part, or on the part of their respective interests or corporations, to do anything toward raising the additional capital to bridge this gap of \$13,880,000?

Mr. MCKEE. They made no direct commitment to me.

Mr. PECORA. Were they asked to do that?

Mr. MCKEE. Yes; they were.

Mr. PECORA. Well, do you recall whether any of them advanced any reasons for their unwillingness to commit themselves to raise this full capital to bridge this gap?

Mr. MCKEE. Not to me; they did not.

Senator COUZENS. Mr. McKee, it has been testified here that prior to this consolidated application, there was an application made for a loan to liquidate the deposits in the Union Guardian Trust Co. alone, and that at the suggestion of you, and perhaps of Mr. Leyburn, and perhaps of Governor Talley, the application was increased to cover all the units of the Group. Do you recall that?

Mr. MCKEE. I never recall seeing any application for the benefit of the Union Guardian Trust Co. alone. The original sheet, or descriptive list, of collateral to be offered was handed me by Governor Talley before I left for Detroit the first time, which I am glad to offer as an exhibit if you so desire.

Mr. PECORA. Yes. Will you produce it, please?

Senator COUZENS. While you are getting that exhibit let me ask: Did you suggest to this group that they increase their application so as to cover all of the units?

Mr. MCKEE. No. I never suggested that.

Senator COUZENS. Did you or Governor Talley make such a suggestion?

Mr. MCKEE. I heard none of the conversation between Governor Talley and the representatives of the group.

Senator COUZENS. All right.

Mr. PECORA. Now, this paper that you have handed me is handwritten in lead pencil. Whose handwriting is it?

Mr. MCKEE. It isn't Governor Talley's. But it was he that gave it to me.

Senator COUZENS. Do you know who wrote it?

Mr. MCKEE. No; I do not.

Mr. PECORA. Do you know who gave the data represented by the figures shown on this paper?

Mr. MCKEE. It was presented to me that day, January 26 or 27, in Washington.

Mr. PECORA. By a representative of the Guardian Detroit Union Group?

Mr. MCKEE. That is right.

Mr. PECORA. What do those figures purport to represent?

Mr. MCKEE. They purport to represent the assets which could be disposed of by certain unit banks of the group, and how much cash would have to be replaced by the sale of those assets, for the transfer of those assets. It gives a complete schedule of how much money

would be required, how much assets they would have to offer. And that, gentlemen of the committee, is what I took to Detroit with me as a basis of what I had to work with.

Mr. PECORA. It was given to you to be used by you as a sort of factual basis for your calculations.

Mr. MCKEE. That is correct.

Mr. PECORA. Mr. Chairman, I offer it in evidence.

Senator COUZENS. May I point out, before you offer the paper in evidence, that there is written in pencil on the back of the sheet [reading]:

Original sheet of requirements as prepared by Mr. Kanzler.

The CHAIRMAN. Let it be admitted in evidence.

(The statement in pencil was marked "Committee Exhibit No. 78, Jan. 15, 1934," and will be found at the end of the day's proceedings, the understanding being that the original pencil sheet will be returned to the witness for his files.)

Mr. PECORA. Now, Mr. McKee, you may want to have this paper before you, it having been marked "Committee Exhibit No. 78", just received in evidence, for the purpose of giving your testimony further. So I will return it to you for the time being.

Mr. MCKEE. Thank you.

The CHAIRMAN. Mr. McKee, before that time as I understand the Union Guardian Trust Co. had obtained a loan.

Mr. MCKEE. Yes.

Mr. PECORA. It had obtained a loan from the R.F.C. in the year 1932.

Mr. MCKEE. Yes, sir.

Mr. PECORA. But you had nothing to do with that loan transaction?

Mr. MCKEE. I did not.

The CHAIRMAN. How much was that loan?

Mr. MCKEE. There was a commitment, Mr. Chairman, made in the neighborhood of \$15,000,000. At the time we are speaking of I think there were about 9 to 10 million dollars outstanding. I think more had been withdrawn but some of it had been repaid. I think at the time I went to Detroit there was a balance outstanding of from 9 to 10 million dollars.

Senator COUZENS. And that collateral is still with the R.F.C. for the unpaid portion of the loan that the Union Guardian Trust Co. received?

Mr. MCKEE. That is right.

Mr. PECORA. At the conclusion of this 2-day conference in Detroit what was the next thing that you did?

Mr. MCKEE. The conclusion of it was the signing of the moratorium by the Governor of the State of Michigan.

Mr. PECORA. That proclamation was issued on the night of Monday, February 13, as I recall it, becoming effective the morning of February 14?

Mr. MCKEE. Yes, sir.

Senator COUZENS. Were you there when the Governor signed the order?

Mr. MCKEE. I was.

Mr. PECORA. Did you have any conference with the Governor of Michigan with respect to the issuance of the moratorium proclamation?

Mr. MCKEE. I did.

Mr. PECORA. What was the substance of it?

Mr. MCKEE. Before the Governor would sign his proclamation—and we were all in the committee room in the Union Bank Building—

Mr. PECORA (interposing). You say you were all there. Will you indicate who were there besides you and the Governor?

Mr. MCKEE. That was quite a large party at that time.

Mr. PECORA. Will you give us the names of as many as you can recall?

Mr. MCKEE. It included the president of the clearing house, the State bank association chairman, bankers representing the First National Group, bankers representing the other Detroit banks, bankers representing the Union Group, and—

Mr. PECORA (interposing). That is, the Guardian Detroit Union Group?

Mr. MCKEE. Yes, sir; and some out of town bankers. In fact, it was a party of some 30 to 40 people. And it was at that meeting that the Governor said that before he would sign the proclamation he wanted a letter from everybody to the effect that it was the thing for him to do. And it was in that meeting that I, in front of this group or committee, told the Governor that as far as the Reconstruction Finance Corporation was concerned, or my representing them, he would have to sign the proclamation on his own responsibility.

Mr. PECORA. That is to say, you told him you could not undertake to express any opinion with regard to the action he should take so far as your attempting to speak on behalf of the R.F.C., is that right?

Mr. MCKEE. That is right.

Mr. PECORA. In this conference was the banking situation, as it immediately affected the Guardian Detroit Union Group, fully discussed?

Mr. MCKEE. Yes; it was.

Mr. PECORA. And were there present officers of the Guardian Detroit Union Group, I mean present at that discussion?

Mr. MCKEE. They were.

Mr. PECORA. And did they participate in it?

Mr. MCKEE. Yes; I think they did.

Mr. PECORA. Do you recall what statements or representations were made to the Governor by any of the officers of the Guardian Detroit Union Group with regard to the condition of the group and its unit banks?

Mr. MCKEE. I believe that was done in the anterooms. I do not know whether the Governor, in fact I do not think the Governor got the substance of general conditions in this group meeting. In fact, he had them before he came in. There were plenty of anterooms in this Union Guardian Trust Building, and I think possibly when he came in somebody had fully advised him. And that was not out of the way at all, because he came in cold and did not know what it was all about.

Mr. PECORA. What took place after that, I mean after the declaration by the Governor of a banking moratorium?

Mr. MCKEE. Before we go any further, Mr. Pecora, might I make a suggestion?

Mr. PECORA. Yes; go ahead.

Mr. McKEE. I would like to emphasize the picture of the collateral offered on that loan before we go too far.

Mr. PECORA. All right.

Mr. McKEE. And I would be very happy if we get it into the record, because it is to me quite important, because we have been criticized in a local investigation up there that we did not do our part.

Mr. PECORA. Well, then you tell this committee all that you can with regard to the examination you made of the available collateral or assets of the group, valuation you placed upon it, and any discussion you had about it with officers in the group or anybody else.

Mr. McKEE. When we get down to the final application, as you have been told before, the total of the collateral was \$64,871,000. Of that collateral there was a face value of bonds of \$13,085,000, of which we were willing to loan \$8,192,000.

There were secured notes of \$6,374,000, of which we were willing to loan \$2,639,000.

There were offered unsecured notes in the face value of \$730,000, of which we allocated a loan value of \$313,000.

Mortgages were offered with a face value of \$12,466,000, of which we were willing to loan \$11,224,000.

Mr. PECORA. Those were real-estate mortgages?

Mr. McKEE. That is right.

Mr. PECORA. Slow assets?

Mr. McKEE. That is right.

Mr. PECORA. You were willing to loan how much?

Mr. McKEE. \$11,224,000.

Mr. PECORA. As against a face value of how much?

Mr. McKEE. Of \$12,466,000.

Mr. PECORA. Wasn't that exceptionally liberal?

Mr. McKEE. It would seem so to me.

There were other assets with a face value of \$556,000, of which we were willing to loan \$393,000.

The subtotals of those amounts would represent a face value of \$33,211,600 of additional assets to be pledged, of which we were willing to loan \$22,762,200.

Mr. PECORA. How did that amount that you were willing to loan on those assets compare with the liquidating value of those assets?

Mr. McKEE. That was liquidating value.

Mr. PECORA. Right up to the limit of the liquidating value?

Mr. McKEE. That is right.

Now, then we go on and add to that the assets already pledged to the Reconstruction Finance Corporation, with a face value of \$31,659,000, of which we had already committed for \$15,000,000, which gave us the result of \$64,871,000 of face value of collateral, with a total loan value, with the repayment of the other loan, of \$37,762,200, of which we made a commitment of \$37,720,000.

Now, the assets offered in that application represented the free assets of the Union Trust Co., the pledged assets of the Union Trust Co., of the assets of the Union Building Co., the Congress Corporation, certain assets from the National Bank of Commerce in Detroit, and the Union Guardian Group's free assets and five banking buildings owned by the National Bank of Commerce in Detroit.

The free assets of the Union Trust Co. were the balance of their portfolio. We were told that they had \$12,000,000 of face value of assets. Of this \$7,940,000 were all that was available for pledge.

Of those new assets there were bonds of face value of \$500,000, secured notes of \$432,000, real-estate mortgages of \$3,552,000, and other assets of \$555,000, on which we were willing to loan \$5,096,500.

Included in the mortgages coming from that Union Trust Co., as I recited, \$3,552,000, were \$2,755,000 of first mortgages, \$659,000 second mortgages which were subject to prior liens of \$229,000, and second mortgages to first owned by the Metropolitan Life Insurance Co. of \$138,000 with prior liens of \$447,000.

The pledged assets that we had already in our portfolio had been reviewed from time to time by our examiners, both in Detroit and in Washington, having in mind that sooner or later we would have to increase our commitment to this institution, and we were satisfied that in loan value the amount already committed for was about as far as we could go.

The Union Building Co. we discussed here the other day, that of the \$4,084,400 book entry of the Union Building Co., being the equity owned in this building subject to two prior liens totaling \$6,400,000, we had allocated a loan value of \$2,042,000.

Mr. PECORA. On what was virtually a third mortgage?

Mr. MCKEE. That is correct.

Senator COUZENS. And it has since developed that that is not worth anything?

Mr. MCKEE. That is right, although I am not informed of that positively.

Senator COUZENS. I get that from the report of the press on the court action.

Mr. MCKEE. This building, I might say by the way, was losing money right along, and its earning power was very limited. In fact, it was losing approximately \$75,000 a year on abnormal rents paid by the two institutions who had quarters in the bank buildings.

Then we come to the Congress Corporation who pledged assets which were formerly criticized assets of banks.

Mr. PECORA. Do you know what the Congress Corporation was, Mr. MCKEE?

Mr. MCKEE. I could not tell you that.

Mr. PECORA. Were you informed that it was a corporation caused to be organized by the Guardian Detroit Union Group for the purpose of enabling the group to take out of its various unit banks from time to time criticized assets?

Mr. MCKEE. I think that was right. I never went into the articles of association of the corporation. I knew that they had assets that were former bank assets that had developed into criticized assets of value.

This Congress Corporation had book assets of \$4,600,000, and those assets we could only find a value of \$605,000 on.

The assets purchased from the Guardian National Bank of Commerce were assets of value. They were items which were slow at that time and on which they needed liquidity if and when we were going through with this proposition and if the Union Trust Co. was to close.

So we took from their portfolio \$5,313,000 of first mortgages, and we were willing to loan \$4,782,000 against them.

They offered us city of Detroit notes. The credit of Detroit was then in a very serious condition. They needed money. They needed extension of credit. They offered us \$3,214,000 of city of Detroit notes of which we were willing to loan them \$2,893,000.

They offered us the notes of the Fisher Co. with a face value of \$1,119,000 and we allocated a loan value to those notes of \$1,007,000.

They offered us Simmons Co. bonds, a bond issue that had not been sold prior to the break in the market. They had a face value of those of \$2,350,000. We went into the statements carefully and we were willing to loan them \$2,115,000.

Mr. PECORA. On securities that they had not succeeded in floating prior to the crash?

Mr. McKEE. They had a participation in some underwriting and they were not able to dispose of them.

Of the face value of the collateral coming from the Guardian National Bank of Commerce, with \$11,998,000, possibly \$12,000,000, we were willing to loan them \$10,798,000.

The Union Guardian Group's free assets that were offered to us had a market value of \$898,000, which included stocks and bonds listed and unlisted. Some of it included some of the group stock. And we were willing to loan on these securities \$620,000.

Then we had 5 bank buildings that were offered us, 4 in Detroit and 1 in some outlying place, which, in order to do this, gentlemen, we just stretched our imagination to the limit and were willing to loan them \$3,600,000 on those five bank buildings. Senator, you may be familiar with some of them. One I think was across from the post office in some former bank building, and about town.

But I just wanted to satisfy the records here that the Reconstruction Finance Corporation were as liberal, if not more liberal, in this situation in Detroit than any others in the United States, trying to do this job.

Mr. PECORA. Now will you proceed to tell the committee what took place after the declaration of the bank moratorium by the Governor of Michigan?

Before you pass on to that let me ask you this: Do you recall whether any of the gentlemen that were present at the conference with the Governor just prior to the issuance of his moratorium objected to the issuance of the moratorium or advised against it?

Mr. McKEE. There were some objections to it.

Mr. PECORA. Do you know who they were?

Mr. McKEE. Who they were I don't know. I believe there was one in Detroit, the Detroit Savings Bank. I forgot his name.

Senator COUZENS. Mr. Dunham?

Mr. McKEE. Mr. Dunham I believe was against it. I think there was quite a bit of feeling up-State against it. But generally speaking I think most of them after they knew the circumstances could not see anything else except the moratorium.

Mr. PECORA. Now will you proceed from that point on and tell the committee if you will in substance what took place after the declaration of the State moratorium?

Mr. McKEE. Well, of course, the first steps that were taken were to try to relieve the suffering caused by the closing of all the banks, to make available as soon as possible some portion of the funds to the depositors. The liquidity of the two large national banks was such

that they could make, without further borrowing, and one by some disposition of Government bonds, available immediately 10 percent to the depositors. They did it by means of 5 percent once and 5 percent about a week or 10 days later. Everything was done to try to prepare applications. My instructions were to try to find out how much money we could loan these two banks.

Mr. PECORA. When you say these two banks you mean the two groups, don't you?

Mr. MCKEE. That is the Guardian National Bank of Commerce and the First National Bank of Detroit.

Mr. PECORA. The Guardian National Bank of Commerce was the largest banking unit owned by the Guardian Detroit Union Group?

Mr. MCKEE. That is right.

Mr. PECORA. And the First National Bank of Detroit was the largest banking unit owned by the Detroit Bankers Co.?

Mr. MCKEE. That is correct. And in those two banks was where most of the public's money was frozen at that time. And we were instructed to endeavor to try to find how much we could loan.

Mr. PECORA. By the "Public's money" you don't mean deposits of public funds; you mean depositors' money?

Mr. MCKEE. No; depositors' money. How much we could loan and how quickly we could loan it to the First National Bank and the Guardian National Bank of Commerce.

The limits of the Corporation set by the law were, as I recall at that time, 99 million and some hundred thousand dollars. We could not loan the First National Bank in excess of that amount. When we got into the thing a little deeper we discovered that we could not loan them that much, because we were handicapped by the fact that some of their units in their group had borrowed previously from the Corporation and that commitment had to be reduced accordingly. But efforts were made to loan the First National Bank and the Guardian National Bank of Commerce as much money as was possible under the act to free as much deposits as possible.

It was then that we got into the organization of new banks. We were opening old banks, and it was just one controversy after another that spelled waste of time and energy and one plan after another, until we got down to a plan where the Comptroller of the Currency's office appointed the conservator.

The CHAIRMAN. For each of the banks?

Mr. MCKEE. For each of the banks.

The CHAIRMAN. Were any loans made to the conservators?

Mr. MCKEE. There have been since, Senator; yes.

Senator COUZENS. To the receiver, not to the conservator?

Mr. MCKEE. They were made to the conservator first, Senator.

Senator COUZENS. Were they?

Mr. MCKEE. And then they were replaced by receivers.

Mr. PECORA. There had been an informal commitment made by the R.F.C. to loan the \$37,720,000 to the Guardian Detroit Union Group, had there not?

Mr. MCKEE. That is right.

Mr. PECORA. That was made, as I recall your testimony, on Saturday, February 11, 1933?

Mr. MCKEE. Yes.

MR. PECORA. Now, in view of the fact that the Group and the various interests that it sought to ally with it in meeting the situation were unable to fill the gap of some \$11,880,000, or \$13,880,000, was that informal commitment afterwards rescinded by the R.F.C.?

MR. MCKEE. It was.

MR. PECORA. Do you remember on what date that took place?

MR. MCKEE. I do not; but there was never a formal application presented to us.

MR. PECORA. I understand this informal or tentative commitment was rescinded on February 18, 1933.

MR. MCKEE. That is probably correct.

SENATOR COUZENS. And up to that time no formal application had been made of any kind?

MR. MCKEE. That is right.

SENATOR COUZENS. It was just a tentative application?

MR. MCKEE. It was a conditional commitment made by our board if and when they could file an application and deposit the collateral.

MR. PECORA. You mentioned something about discussions that were had in connection with a proposal to the R.F.C. to loan moneys to the principal banks of these two groups, respectively, namely, the First National Bank of the Detroit Bankers Co. Group, and the Guardian National Bank of Commerce of the Guardian Detroit Union Group. What was the proposal specifically with regard to that loan?

MR. MCKEE. I may be a little foggy on that, Mr. Pecora, but we were attempting to loan up to a hundred million dollars to the First National Bank and 50 million dollars to the Guardian National Bank of Commerce.

MR. PECORA. Wasn't it 35 million dollars to the Guardian National Bank of Commerce?

MR. MCKEE. It might have been 35, but in even figures we were sort of figuring on 150 millions of dollars, in order to reopen their banks on a 50-percent basis, as I recall it. But those plans changed and altered overnight, and there has been so much gone over the dam since that I am foggy on that.

MR. PECORA. Well, those discussions did not result in the making of the contemplated loan?

MR. MCKEE. They did not.

THE CHAIRMAN. What would have happened to the banks if there had been no holiday declared by the governor?

MR. MCKEE. Well, that is anybody's opinion, Senator. In my opinion, the medium of advertising used by the Union Group had really penalized them when they got to the crucial moment—that here was one of their strongest units that could not survive, and their form of advertising that they had carried on in the past was absolutely going to put the brand on every one of their banks, no matter where located.

That was the chief worry of the entire group at that time. If and when they could have let the Union Trust Co. go, it would have been fine, but due to the medium of advertising it was impossible, without hurting every other unit in the group, and they just were not in condition to stand it.

THE CHAIRMAN. Then the declaration of the holiday did not help the situation much, did it?

Mr. MCKEE. No; it did not.

The CHAIRMAN. Then perhaps it was not any worse or any better after that than it was before?

Mr. MCKEE. The only thing that I can say by the holiday is this, that it did not carry on a program of preferring creditors by having the smart money run out first.

Mr. PECORA. To that extent you think the closing was advisable from the standpoint of public policy?

Mr. MCKEE. I certainly do. Because either of those banks would not have lasted very long, because the smart money was just ready to hit them on Tuesday morning for everything they had.

Mr. PECORA. That is Tuesday morning, February the 14th?

Mr. MCKEE. The 14th.

Mr. PECORA. Now, in order possibly to refresh your recollection concerning the discussions that were had about the proposition to advance 100 million dollars to the First National Bank and 35 million dollars to the Guardian National Bank of Commerce, let me read to you the following extracts from minutes of a special meeting of the board of directors of the R.F.C. held on February 21, 1933 [reading]:

Mr. McKee, who had returned from Washington to Detroit pursuant to instructions of the board as recorded in the minutes of February 20, 1933, reported the progress which had been made in Detroit in working out plans for the reorganization of the First National Bank and the Guardian National Bank of Commerce. Mr. McKee stated that it would require a loan of approximately 100 million dollars to the First National Bank and a loan of approximately 35 million dollars to the Guardian National Bank of Commerce in order to permit those institutions to organize new banks and be in a position to pay depositors 50 cents on the dollar. He said that he had been pressed by representatives of both institutions to indicate whether the board would be willing to advance the necessary funds. Mr. McKee indicated that in his opinion these institutions had sufficient acceptable collateral to offer adequately to secure approximately a hundred million dollars to the First National Bank and approximately 35 million dollars to the Guardian National Bank of Commerce. He said that he informed representatives of both institutions that he had no authority to make a commitment as to the amounts which the Board would be willing to lend.

After a full discussion of the situation the Board decided to defer action on the matter and to convene again later in the day to give it further consideration.

Does the reading of that portion of the minutes of this special meeting of the board of the R.F.C. refresh your recollection concerning the discussions you had?

Mr. MCKEE. Yes, it does.

Mr. PECORA. About this proposition to make these loans to the First National Bank and the Guardian National Bank of Commerce, respectively?

Mr. MCKEE. Yes, it does.

Mr. PECORA. To what extent does it refresh your recollection?

Mr. MCKEE. We had a plan offered by Mr. Ford to recapitalize the two banks, putting so much capital in one and so much in the other, if and when we could make the loan sufficient to liquefy the banks to take over 50 percent of the deposit liability. The First National Bank seemed to upset the program, due to the fact, as I recall, that our limits as to how much we could loan that bank, who had the largest deposit liability, in the neighborhood of 440 million dollars of deposits, that they had to raise 20 million dollars from other sources, and they offered as collateral certain collateral that the group had under consideration prior to the moratorium. The entire

program fell through when Mr. Mills was informed by this group whom he counted on to make this 20-million dollar loan—

Mr. PECORA (interposing). Which Mr. Mills was that, Secretary of the Treasury or the president of the First National Bank?

Mr. McKEE. No, the president of the First National Bank, Wilson Mills—that his request for a \$20,000,000 loan was refused.

Mr. PECORA. By these other bankers?

Mr. McKEE. That is correct.

Mr. PECORA. Do you remember the names of any of the bankers that had discussed the making of this \$20,000,000 loan?

Mr. McKEE. No, sir; I do not.

Mr. PECORA. They were New York banks, weren't they?

Mr. McKEE. I never knew, Mr. Pecora. I knew it was outside of Detroit.

Mr. PECORA. Do you recall the name of the Central Hanover National Bank & Trust Co. of New York in that connection?

Mr. McKEE. No; I do not.

Mr. PECORA. Have you at the moment any recollection of subsequent proceedings or action or consideration given to the matter of relieving the Detroit banking situation?

Mr. McKEE. By the board of directors of the R.F.C.? Nearly every morning the papers had a new plan. Following the failure of that plan, an attempt was made to get a special legislature through at Lansing in order that they might open these two banks under some deferred agreement. I don't know what the law was, but they were attempting then to get it through in time to open these banks, and this plan offered by Mr. Ford to open the two banks fell through in absence of the \$20,000,000, and immediately they started on this other plan of reorganizing the present bank.

Mr. PECORA. In connection with the action subsequently taken by the R.F.C., for the purpose of refreshing your recollection thereon let me read to you the following from the minutes of a special meeting of the board of directors of the R.F.C. held on the afternoon of February 21, 1933 [reading]:

Mr. McKee presented to the board a copy of a proclamation just issued by William A. Comstock, Governor of Michigan, which he had received by telephone from A. R. Leroy, temporarily detailed as examiner of the Washington office, who was in Detroit. The proclamation is as follows—

And in view of the importance of the proclamation, for the purposes of this record I will read it into the record in full—

PROCLAMATION

Whereas, the Legislature of the State of Michigan, by Senate Concurrent Resolution No. 23, has declared an emergency to exist involving the bank and credit structure of the State of Michigan and has requested that the Governor of the State proclaim such extensions of a bank holiday heretofore proclaimed as may in his opinion be necessary, and has further requested that if in his opinion it is advisable the Governor may restrict and prescribe the conditions under which deposits, either savings, commercial or reserves of other banks, may be released from banks and trust companies, and if advisable may vary the restrictions as to such classes of deposits;

Now, therefore, I, William A. Comstock, Governor of the State of Michigan, hereby proclaim that all banks, trust companies, and other financial institutions conducting a banking or trust business within the State of Michigan prior to said holiday, shall be opened for the transaction of business at the regular opening

hour on the morning of Thursday, February 23, 1933; providing, however, that such business shall be limited to the following functions:

"1. Reserve deposits shall be available to depositing banks and may be withdrawn without creating a preference.

"2. Payment to depositors in either commercial or savings departments shall be limited in amount to the proportion the total individual deposit bears to the cash on hand, and available reserves in United States Government bonds in each such department. Such payment shall only be allowed for necessary purposes, such as pay rolls, bank transit items created on and after February 23, 1933, or necessary living expenses, tax payments, or other obligations to the State of Michigan and subdivisions thereof, or to the Federal Government, drafts with bills of lading attached, Reconstruction Finance Corporation moneys on deposit for welfare purposes, and such other purposes necessary for the ordinary conduct of business, providing always that no depositor shall be preferred as against any other depositor.

"3. Banking institutions may take new deposits, but such deposits shall be treated as trust deposits, and there shall be opened in each such institution a trust-deposit department. Such deposits shall be payable on demand without interest and held solely for the repayment to such depositors.

"Banks and trust companies acting in a fiduciary capacity may perform their duties and discharge their obligations in such capacity, provided that in the exercise of such fiduciary functions debtor and creditor relationships shall not be involved.

"5. Such modifications in the foregoing limitations as may be necessary in extraordinary cases may be allowed with the consent of the State Banking Commissioner, provided, however, that no depositor shall be preferred as against any other depositor.

"The bank holiday heretofore proclaimed by me shall continue in effect, subject to the foregoing limitations, until otherwise ordered by me.

"Dated February 21, 1933.

"WILLIAM A. COMSTOCK,
Governor of Michigan."

Do you recall presenting a copy of that proclamation to the R.F.C. board on February 21, 1933?

Mr. MCKEE. I do.

Mr. PECORA. Let me read to you, for the purpose of refreshing your recollection, the following excerpt from the minutes of a special meeting of the board of directors of the R.F.C. held on the morning of February 22, 1933, regarding an informal commitment of \$35,000,000 in connection with the proposed reorganization, subject to the result of conference with the incoming Secretary of the Treasury [reading]:

At this point, the board went into executive session, the following being present: Mr. Pomerene, presiding; Mr. Miller, Mr. Mills, Mr. Ballantine, Mr. Couch, Mr. McCarthy, Mr. Cowles, Mr. Cooksey, secretary, Mr. Reed, general counsel, Mr. Bethea, assistant secretary, Mr. Talley, assistant to the directors, and Mr. McKee, assistant chief, examining division.

F. G. Awalt and Gibbs Lyons, Acting Comptroller of the Currency and Deputy Comptroller of the Currency, respectively, also were present.

The board considered further the banking situation in Detroit, Mich. Mr. Miller reported that he had been informed there was considerable uneasiness on the part of the banks as a result of Governor Comstock's proclamation of yesterday, and that he felt it was desirable for the board to take some action which would reassure the bankers in that city, who are endeavoring to formulate reorganization plans with respect to the First National Bank and the Guardian National Bank of Commerce. Mr. Miller said that there was some uncertainty as to the proper construction to be placed on certain provisions contained in the proclamation and that he understood that the Governor was being asked to interpret such controversial provisions.

Mr. McKee read to the board the following resolution, adopted by the Detroit Clearing House Association late yesterday, which he had received by telegraph:

"We commend the Governor on his decision to continue the Bank Holiday for the protection of all depositors. Until national and State legislation can clarify the situation, the Detroit Clearing House banks will make no further distribution for the time being, but will operate their holiday functions as during the past

week. Everything possible will be done under authority of the present laws to lighten the inconvenience to the public."

Mr. McKee said that this resolution, which had been made public by the Detroit Clearing House Association, would make it unnecessary for the Clearing House banks to concern themselves with the construction of troublesome provisions of the Governor's proclamation, since the situation had been met by their decision not to make additional distribution of funds to depositors.

Mr. Mills stated that, in line with his discussions with the board in executive session yesterday afternoon, he had arranged a conference with William H. Woodin, who will be the Secretary of the Treasury, in President Roosevelt's administration, at 8:30 p.m. today at New York.

Departing for a moment from the reading of this excerpt—the Mr. Mills referred to there was the Secretary of the Treasury, was he not?

Mr. MCKEE. That is correct.

Mr. PECORA. Now I will resume my reading of this excerpt from the minutes [reading further]:

He—

Meaning Mr. Mills—

Said that, upon reflection, he was convinced that the Corporation could not afford at this time to reverse its policy with respect to granting loans to distressed banks, particularly in view of the key situations in Detroit and Cleveland, and perhaps other cities, which require careful treatment at this time. He said that, although it would increase the problem of the Treasury to raise the large amount of funds which would be necessary, in addition to the normal requirements of the Corporation, prior to the regular financing which it was anticipated would be conducted on March 15, 1933, he felt that it was absolutely essential to avert the collapse of the banking structure in the important cities mentioned. In addition to the shock and harm to the whole credit structure, he said a collapse at these points at this time might seriously hamper the Treasury in carrying out its financing operations on the 15th of March and later. He indicated that, in his opinion, the effect on the Government's credit would be disastrous if any collapse of such magnitude should occur at this time, and that in the long run, the Corporation's failure to assist in the present difficult situations on a large scale would cost the Government many more millions of dollars.

Mr. Pomerene reported that he had just received a telephone message from Mr. Jones, who was in New York, to the effect that he had conferred with President-elect Roosevelt and with Mr. Woodin, and that it was the consensus that it would be preferable for the board not to make any definitive action with respect to making loans to the institutions in Detroit until after Mr. Mills' conference tonight with Mr. Woodin.

After a full discussion of the Detroit situation, it was the sense of the board that (subject to the results of Mr. Mills' conference with Mr. Woodin tonight), if the First National Bank and the Guardian National Bank of Commerce proceeded to set up two new institutions with capital funds sufficient to satisfy the Comptroller of the Currency and satisfactory to him in all other respects, the board would be disposed to make a loan up to the legal limit to the First National Bank and a loan up to \$35,000,000 to the Guardian National Bank of Commerce, with the understanding that such loans would be fully and adequately secured, and that, insofar as possible, adequate provision would be made to take care of preferred and unknown liabilities of the respective banks. The board authorized Mr. Miller to advise officials of the two banks referred to as to the board's attitude in the matter.

That finishes the excerpt from the minutes that I want to read.

Do you recall anything about that item of business transaction by the board of directors of the R.F.C. on February 22, 1933?

Mr. MCKEE. Yes, I do, in a vague way; I recall everything that you have read.

Mr. PECORA. You recall this action, do you?

Mr. MCKEE. I do.

Mr. PECORA. Do you recall anything else in connection with any discussion had of this subject? For the purpose of possibly refreshing your recollection as to that, let me read to you the following excerpt from the minutes of a special meeting of the board of directors of the R.F.C. held on the morning of February 23, 1933 [reading]:

The board authorized the appointment of A. R. LeRoy, now performing special temporary duty at Detroit in accordance with the board's previous authorization, and H. Z. Persons, and R. S. Jones, examiners, Washington office, to act as a special committee to examine the loan applications of Detroit, Mich., banks and make recommendations in connection therewith.

Do you know anything about that?

Mr. MCKEE. Yes. Up to the time of the moratorium we have—I might say for your record that we have an established agency in the city of Detroit, and all the negotiations carried on by me and the group that was with me at Detroit were foreign to our agency prior to the moratorium. In fact, we never went near our agency and they did not know we were in town. After that time we took a very active part in assisting the agency to meet the emergency as it existed in the entire State of Michigan. It was for that purpose that this committee was appointed by our board, to act on applications and make recommendations to our board so that commitments might be made readily.

Mr. PECORA. You will recall that at the meeting of the board of the R.F.C. on February 22, last, it was indicated that Secretary Mills was to have a conference that night, the night of February 22, with the incoming Secretary of the Treasury, Mr. Woodin. Do you recall what report was made to the board of the R.F.C. with regard to the results of such conference?

Mr. MCKEE. I do not. If it was made, it was made in executive session when I was not present.

Mr. PECORA. For the record here, Mr. Chairman, I want to read an excerpt from the minutes of a special meeting of the board of directors of the R.F.C., held at 10:30 a.m. on February 23, 1933, which is as follows [reading]:

With respect to the general question of dealing with the present emergency during the period between now and the advent of the new administration, involving large loans to institutions in large centers, Mr. Miller reported that Secretary Mills had advised him that, at his conference last night with William H. Woodin, who will be Secretary of the Treasury in President Roosevelt's Cabinet, Mr. Woodin said that, while he would be glad to be kept informed of important developments, the problems now under consideration should be determined by the board in accordance with its own views and on its own responsibility.

The CHAIRMAN. Is that part of the records of the R.F.C.?

Mr. PECORA. I read excerpts of minutes of various meetings of the board of directors of the R.F.C. which have been furnished me, Mr. Chairman, by the R.F.C. itself. So I do not believe that the authenticity of these excerpts can be questioned.

Now I want to read, for the purpose of refreshing your recollection, the following excerpts from the minutes of a special meeting of the board of directors of the R.F.C. held at 5:45 p.m. on February 25, 1933 [reading]:

Mr. Milford presented the following messages from the board's special committee in Detroit, which will be transmitted by telegraph and which Mr. McKee read over the telephone in order to expedite delivery to the board:

Then follows a long, detailed, itemized statement, starting as follows:

In regard to formal application now on file of First National Bank of Detroit for a loan of \$100,000,000, the following information is furnished you in order that a commitment might be made at once to enable present bank to perfect plans of reorganization. A commitment of \$90,000,000 is recommended by your special committee to the applicant on the following collateral—

Then follow considerable details of the collateral, which I will not burden the record with, except to state the total loan value of the collateral, which is stated to be \$90,583,837.

Do you recall that, Mr. McKee?

Mr. MCKEE. I do.

Mr. PECORA. Was that loan value of \$90,583,837 representative of the full liquidating value of the collateral?

Mr. MCKEE. It was not. It was a fully and adequately secured loan for that amount of money based on loan value. I think the collateral was in the neighborhood of \$150,000,000 face value or \$160,000,000.

Senator COUZENS. Do you know, Mr. McKee, that considerable comment has been made about the inability of you and others not familiar with Detroit values coming to Detroit and attempting to place values on securities of that class? What have you to say as to that?

Mr. MCKEE. Well, Senator, we were most liberal with the valuations, on the information given us—in fact, too much so. Under normal conditions we certainly would not have been as liberal as we had been. We took valuations furnished us by the bank and predicated our loan values on those sums.

Senator COUZENS. You took the appraisals of the bank officials?

Mr. MCKEE. Am I correct in my belief that annually in Detroit they have an appraisement of real estate?

Senator COUZENS. An assessment by the assessors; yes.

Mr. MCKEE. That is correct. They had the assessors' valuations in every case, especially in the case of the First National Bank. As to the mortgages in the First National Bank, everybody from our office that worked on them admitted that they were about as clean a group of mortgages as we had ever seen, well cared for, well amortized. The records were in proper shape as to delinquencies as well as to appraisements. I doubt whether there was any real criticism by anybody that knew.

Senator COUZENS. You did not make any physical valuation of the properties represented by these mortgages?

Mr. MCKEE. No, sir.

Senator COUZENS. Did you reduce the valuation as placed on them by the bank, or did you accept their valuation?

Mr. MCKEE. As I said, we loaned on the loan value. We took a percentage of it. I think we loaned as high as 85 and 90 percent on the face value of some of the mortgages of the First National Bank. They were good mortgages. They had some fifty thousand mortgages. I think we considered some thirty thousand; and all we had to do was to take good mortgages, because there was adequate security for as high a loan as we could possibly make.

Senator COUZENS. They were all current; there were none in default?

Mr. MCKEE. There were very few in default.

Senator COUZENS. So you took the assessed valuation or the bank valuation—which?

Mr. MCKEE. The assessed valuation.

Senator COUZENS. The assessed valuation could hardly have been less than the bank value, could it, when the property is supposed to be assessed at a hundred percent and the loan based on a 50-percent basis?

Mr. MCKEE. I did not mean to say that the loan was made on the assessed valuation, but we predicated our loan value on what the assessed valuation of that property was.

Mr. PECORA. The message which Mr. Milford presented to the board of the R.F.C. on February 25 last, and which it is stated you read over the telephone, from Detroit, in order to expedite the delivery of the message which was to be put in telegraphic form, was a message signed "McKee, LeRoy, Persons." You are the McKee referred to, are you not?

Mr. MCKEE. That is correct.

Mr. PECORA. Let me read further from the minutes of the meeting of the board of the R.F.C. on February 25, last. After the conclusion of the reading of your message in full, the minutes are as follows [reading]:

After considering all aspects of the matter, it was moved and seconded that the corporation agree to make loans, upon full and adequate security, to the First National Bank of Detroit and the Guardian National Bank of Commerce of Detroit in amounts sufficient to carry out plans for the organization of two new national banks under which the depositors of the First National Bank and the Guardian National Bank of Commerce would have 30 percent of their unsecured deposits assumed by the new national banks, with the understanding that the First National Bank of Detroit would obtain a loan in the amount of \$20,000,000 from New York banks and rediscounts in the amount of \$4,441,146.12 from the Federal Reserve Bank of Chicago.

Mr. Jones moved that the motion be amended so that the said loans would be made in amounts sufficient to permit 25 percent of the unsecured deposits, instead of 30 percent, to be assumed by the two new national banks.

The chairman put Mr. Jones' amendment to the motion, and the amendment was lost by a *viva voce* vote.

The chairman then put the original motion which was adopted by a vote of 5 to 1.

Those loans, the loans contemplated in this motion, were not made, were they?

Mr. MCKEE. They were not.

Mr. PECORA. They were not made, for the reason, I believe, as you have already stated, that the loan of \$20,000,000 from certain New York banks and the rediscounts in the amount of over \$4,000,000 from the Federal Reserve Bank of Chicago did not become available?

Mr. MCKEE. That is correct.

Mr. PECORA. Is there anything you can add to what you have already testified to with regard to the efforts made by the R.F.C. to assist the Detroit banking situation?

Mr. MCKEE. Not specifically, Mr. Pecora, other than we gave our undivided time to this Michigan situation, and have ever since the holiday, by keeping special representatives in the State of Michigan to try to reorganize and assist in any way possible the reestablishment of the banks in Michigan.

Mr. PECORA. Do you recall that on February 26, 1933, the board of directors of the R.F.C. made a commitment of a loan of

\$24,000,000 to the Guardian National Bank of Commerce in Detroit upon collateral recommended by the special committee of which you were a member?

Mr. MCKEE. What was the amount of that?

Mr. PECORA. \$24,000,000. If you do not recall it readily, perhaps I can refresh your recollection by reading an excerpt from the minutes of the special meeting of the board of directors of the R.F.C. held at 5 p.m. on February 26, 1933 [reading]:

Mr. Talley then presented two other telegrams to Mr. Milford from Mr. McKee recommending, on behalf of the special committee, a loan not in excess of \$24,000,000 to the Guardian National Bank of Commerce, Detroit, Mich. The telegrams referred to are as follows:

"Milford.

"In reference suggested elimination of collateral offered by Guardian National Bank of Commerce, Detroit, special committee are willing to certify to the adequacy of security on a revised collateral offering as follows:

"Unsecured notes face value original offer \$10,800,000, eliminate \$2,660,000 with no reduction in loan value.

"Secured notes, original offer \$49,200,000 face value, eliminate \$16,700,000 with loan value of \$3,088,000.

"Other real estate, 5 buildings, face value \$3,600,000, 21 parcels of foreclosed real estate, face value \$550,000, and 28 branch bank buildings, face value, \$1,750,000, or total face value of all other real estate of \$5,985,000, to which was allocated loan value of \$1,111,000.

"Revise status of collateral with the elimination above proposed will evidence in the new offering the following collateral: Unsecured notes face value \$8,142,288.53, with loan value \$5,430,000; secured notes \$32,480,314.61 with loan value of \$18,492,000; bonds face value \$10,707,987.22, with loan value of \$4,648,811; mortgages with face value \$14,659,518.33, with loan value of \$8,984,000; total collateral pledged in new offering will have face value of \$65,990,108.69, with loan value of \$37,555,631. This elimination has reduced the face amount of collateral \$25,428,536.79, to which was allocated loan value of \$4,200,000.

"This collateral free in the hands of the bank offers adequate protection to creditors not of record. Considerable savings of time of expense to applicant and our own legal forces by elimination of other real estate as outlined above."

Another telegram [reading]:

"Milford.

"Reference telegram application of Guardian National Bank of Commerce, forwarded you today, through my error the amount of loan was omitted. The commitment to this applicant is not to exceed \$24,000,000 and which amount is recommended by the special committee secured by the collateral as outlined in former wire."

The board agreed to make a loan to the Guardian National Bank of Commerce, Detroit, Mich., in an amount not in excess of \$24,000,000, secured by the collateral listed in Mr. McKee's telegram.

Upon advice of the acceptance of the board's commitment to make loans in the amount of \$54,000,000 to the First National Bank of Detroit and not in excess of \$24,000,000 to the Guardian National Bank of Commerce, the board instructed counsel to prepare resolutions authorizing such loans for its consideration.

Do you know, Mr. McKee, whether those loans were consummated?

Mr. MCKEE. A part of those loans were consummated to the conservators of the bank.

Mr. PECORA. Let me read to you, for the purpose of possibly refreshing your recollection, the following excerpt from the minutes of special meeting of the board of directors of the R.F.C. held at 8 a.m. on March 1, 1933 [reading]:

The Secretary stated that J. K. McKee, assistant chief, examining division, who is in Detroit, had advised by telephone that the following is a copy of a letter, signed by Wilson W. Mills, chairman of the board of the First National Bank of Detroit, which was presented to him at 11:45 p.m., February 28, 1933.

FEBRUARY 28, 1933.

"Mr. J. K. MCKEE,

Reconstruction Finance Corporation, Detroit, Mich.

"DEAR Mr. MCKEE: I tried to reach you by telephone this evening, without success.

"At the conclusion of the board meeting today, I was instructed to telephone Mr. Edsel D. Ford and to state to him that the general opinion of the board is that it is inadvisable to go ahead under the proposed plan in which he and his father are interested. I might add, for your information, that this action of our board was unanimous.

"Will you be good enough to communicate this action to the board of directors of the Reconstruction Finance Corporation? I have informed Mr. Ford of the action of our board.

"I am sending a copy of this letter to your office at the Reconstruction Finance Corporation.

"Faithfully yours,

"WILSON W. MILLS, *Chairman.*"

Mr. MCKEE. Mr. Pecora, I would like to change that answer of mine. Those loans were not made. Similar amounts were in my head that were made later to the conservator, but were not at that time.

Mr. PECORA. Have you, Mr. McKee, at my suggestion caused to be prepared a statement showing the status of loans made by the Reconstruction Finance Corporation to various banks in the Guardian Detroit Union Group as of December 19, 1933?

Mr. MCKEE. I think there was such a report prepared.

Mr. PECORA. I show you what purports to be such a report. Will you please look at it and tell me if you identify it as a correct statement of the status of those loans as of December 19, 1933?

Mr. MCKEE. Although I did not prepare it, this is a copy.

Mr. PECORA. I offer that in evidence.

The CHAIRMAN. It will be admitted and made a part of the record.

(A tabulated statement headed "Status of Loans Made by Reconstruction Finance Corporation to Banks in Guardian Detroit Union Group as of Dec. 19, 1933," was received in evidence, marked "Committee Exhibit No. 79, Jan. 15, 1934," and will be found printed in full at the end of Witness McKee's testimony of this date.)

Senator COUZENS. As I recall your reply to Mr. Pecora's question as to what happened after the banks closed, that is, what happened in relation to the R.F.C., you stated that the money was applied for, that certain moneys were applied for to loan to two new banks that Mr. Ford was to organize; is that correct?

Mr. MCKEE. That is correct—excuse me, Senator: not to the banks but to the existing banks. The loan was applied for by the existing banks.

Senator COUZENS. For the organization, however, of two new banks by Mr. Ford, as I understood?

Mr. MCKEE. Yes; but the new banks would not assume our—

Senator COUZENS. Yes; I understand that. If my recollection is correct, from February 14 on until the time Mr. Ford had agreed to reorganize two new banks, there were negotiations for loans; is not that correct?

Mr. MCKEE. That is right.

Senator COUZENS. You made no reference to those in your reply to the question of Mr. Pecora, did you? You started, as I recall the

recital of the events, beginning with the time that Mr. Ford was to start the two new banks. Were there not some applications prior to that time?

Mr. MCKEE. There were applications made on Monday, or tentative applications considered on Monday, February 13. In order to liquidate the First National Bank and the Guardian Bank of Commerce those were considered up until midnight the night of the 13th—that if and when the Union Group would decide to close the Union Trust Co. and the other banks would decide, in face of that fact, to open for business on February 14, they wanted us to make emergency loans to those two banks. Those applications were considered in a tentative way. However, I question whether our board ever acted on them; but we were in position to recommend to our board from Detroit a loan to the First National Bank, if and when requested, and a loan to the Guardian National Bank if and when requested, if those institutions were going to open on February 14.

Senator COUZENS. From February 14 until the time that Mr. Ford had agreed to establish two new banks, under certain conditions, were there any applications made by both the Guardian National Bank of Commerce and the First National Bank?

Mr. MCKEE. Not that I recall, Senator, now.

Senator COUZENS. I think there were.

Mr. MCKEE. You may be correct on that, Senator, but I just do not recall it now. I do not remember that the records of our corporation indicate that anything was presented to our board.

Senator COUZENS. Will you look at the records on that?

Mr. MCKEE. I will be happy to, Senator.

Mr. PECORA. The report or statement of the status of loans made by the R.F.C. to the Guardian Detroit Union Group as of December 19, 1933, has been received in evidence, marked "Committee Exhibit No. 79" of this date. It shows loans made by the R.F.C. commencing on May 24, 1932; and the last loan appears to have been made on December 16, 1933. That is the last loan shown on this statement. The total amount of loans authorized was \$80,382,000, of which amount there was canceled a total of \$10,273,204.23. The total amount disbursed up to December 19, 1933, on account of these authorized loans, is stated to be \$59,472,236.19, of which there has been repaid \$14,377,393.05, leaving a balance due as of December 19, 1933, of \$45,094,843.14. Collateral held has an aggregate value of \$147,239,849.10.

Now I presume, Mr. McKee, that the value so given to this collateral is the face value?

Mr. MCKEE. That is correct.

Mr. PECORA. That is the total interest paid on account of these loans up to December 19, 1933, was \$251,822.91.

The CHAIRMAN. As payments are made, is the collateral surrendered?

Mr. MCKEE. It is usually made from the sale or reduction of the collateral. In these instances there is no question that most of the repayments have come from the liquidation of collateral pledged, not from other sources.

(Witness excused.)

The CHAIRMAN. The committee will now take a recess until 10 o'clock tomorrow morning.

(Whereupon, at 4:15 p.m., the subcommittee took a recess until tomorrow, Tuesday, January 16, 1934, at 10 a.m.)

COMMITTEE EXHIBIT No. 78—JANUARY 15, 1934

	Funds required	Collateral
National banks:		
Saginaw.....	0	0
Port Huron.....	1,353,678.94	1,366,530.12
Niles.....	315,757.62	315,757.62
Lansing.....	1,130,896.07	1,171,493.49
Kazoo.....	838,914.96	980,720.46
Jackson.....	1,420,194.19	1,561,142.14
Ionia.....	286,819.39	292,319.39
Grand Rapids.....	1,003,649.41	1,145,226.15
Guardian Detroit.....	15,416,837.11	22,868,252.91
Battle Creek.....	691,529.17	759,414.00
Total.....	22,458,276.86	30,460,856.29
State banks:		
Flint.....	4,022,971.61	4,022,971.61
Highland Park.....	0	0
Highland Park Trust.....	0	0
Grand Rapids Trust.....	0	0
Union Guardian Trust Co.....	20,000,000.00	12,124,794.77
Guardian of Royal Oak.....	0	0
Trenton.....	299,943.84	299,943.84
Hamtramck.....	0	0
Dearborn.....	1,133,414.36	1,133,414.36
Michigan Industrial Bank.....	0	0
Total State.....	25,456,329.81	17,582,024.58
National.....	22,458,276.86	30,460,856.29
Congress Corporation.....	47,914,606.67	48,042,880.87
New Union Bldg. Co.....		4,070,058.41
		4,100,000.00
Trust Company.....		56,212,939.28
	15,000,000.00	33,515,057.97
Cash guaranty to assure the payment and collection of the double liability on the stock of the Union Guardian Trust Co.....	62,914,606.67	89,727,997.25
		5,000,000.00
		94,727,997.25

(Pencil memorandum on reverse side of exhibit:)

"Original sheet of requirements as prepared by Mr. Kanzler."

COMMITTEE EXHIBIT NO. 79—JANUARY 15, 1934

Status of loans made by Reconstruction Finance Corporation to banks in Guardian Detroit Union Group as of Dec. 19, 1933

Date	Bank	Amount Authorized	Cancelled	Disbursed	Repaid	Balance Due	Collateral Held	Maturity	Interest Paid
May 24, 1932	Union Guardian Trust Co.	\$4,250,000	\$33,150.94	\$4,616,849.06	\$392,260.63	\$4,224,588.43	\$8,844,183.89	Oct. 13, 1932	\$84,216.71
Oct. 7, 1932	do	400,000				6,901,731.23	19,317,641.18	July 6, 1933	70,891.12
July 5, 1932	do	8,733,000	3,474,629.45	10,025,370.55	3,123,639.32				
Sept. 14, 1932	do				4,391,000.00	4,391,000.00			
Apr. 13, 1933	Guardian National Bank of Commerce	4,391,000							
Oct. 16, 1933	do	2,767,000							
Dec. 16, 1933	do	26,000,000		17,000,000.00		17,000,000.00	86,355,427.05	Oct. 20, 1934	
June 7, 1932	Capitol National Bank, Lansing	3,500,000	392,410.00	32,590.00	32,590.00				
Oct. 29, 1932	do	425,000	325,000.00						
May 19, 1933	do	325,000	300,000.00						
May 28, 1932	City National Bank & Trust Co., Niles	135,000	13,224.11	121,775.89					
June 26, 1933	do	150,000	10,681.43	139,318.57					
June 15, 1932	City National Bank & Trust Co., Battle Creek	515,000							
June 14, 1932	do	200,000							
July 17, 1933	do	200,000	3,700.00	911,300.00	102,406.77	808,893.23	925,438.30	Nov. 27, 1933	10,236.85
June 8, 1932	First National Bank & Trust Co., Kalamazoo	145,000	145,000.00						
Mar. 3, 1933	do	600,000	600,000.00						
June 6, 1932	First National Trust & Savings Bank, Port Huron	675,000	175,000.00	500,000.00	500,000.00				
July 27, 1932	do	107,000	100,000.00	7,000.00	7,000.00				
Dec. 16, 1932	do	710,000	3,310.25	706,689.25	706,689.25				
Feb. 27, 1933	do	170,000	170,000.00						
Apr. 1, 1933	do	900,000	226,998.23	673,001.77	673,001.77				
Aug. 18, 1933	Grand Rapids National Bank, Grand Rapids	2,400,000		2,290,755.63	207,290.08	2,083,465.55	6,919,313.89	Feb. 8, 1934	
Aug. 9, 1932	Guardian Bank of Dearborn, Dearborn	305,000	111,600.47	313,399.53	313,399.53				
May 19, 1933	do	120,000				30,000.00			
June 28, 1933	do	50,000							
July 5, 1933	do	30,000							
Aug. 4, 1933	do	2,022,000	84,130.01	1,937,869.99	34,727.16				
Dec. 16, 1932	Bank of Hamtramck, Hamtramck	56,000	7,707.27	48,292.73	48,292.73				
Mar. 9, 1933	do	42,000							
Mar. 16, 1933	do	15,000	15,000.00						
Aug. 5, 1932	Highland Park State Bank, Highland Park	2,000,000	2,000,000.00						
Feb. 15, 1933	do	2,000,000	300,000.00	1,500,000.00	1,500,000.00				
Feb. 27, 1933	do	1,300,000	1,300,000						
Aug. 10, 1933	do	9,044,000	166,363.44	8,877,696.56	115,638.42	8,762,058.14	14,302,862.15	Jan. 31, 1934	

Oct. 11, 1932	Highland Park Trust Co., Highland Park	105,000	105,000	7,522.59	97,477.41	197,738.06	Feb. 14, 1934
Feb. 18, 1933	do	50,000	50,000	668.09	49,331.91	100,014.04	Feb. 15, 1934
June 28, 1932	National Bank of Ionia, Ionia	100,000	100,000	100,000.00	100,000.00	100,000.00	-----
May 14, 1932	Union Industrial Trust & Savings Bank, Flint	1,400,000	1,400,000	1,400,000.00	362,660.97	1,037,339.03	Oct. 19, 1932
July 15, 1932	do	725,000	12,746.27	712,253.73	211,705.33	2,413,955.12	52,651.90
May 18, 1932	Union & Peoples National Bank, Jackson	350,000	1,760.47	348,239.53	348,239.53	500,348.40	1,338,867.81
July 23, 1932	do	350,000	9,500.00	340,500.00	340,500.00	-----	Dec. 22, 1932
Feb. 23, 1933	do	600,000	10,000.00	590,000.00	590,000.00	-----	26,959.43
July 6, 1933	do	1,700,000	39,351.89	1,633,333.40	37,760.05	1,505,373.35	-----
	Total	80,382,000	10,273,204.23	59,472,236.19	14,377,393.05	45,094,843.14	147,239,849.10

							251,822.91

STOCK EXCHANGE PRACTICES

TUESDAY, JANUARY 16, 1934

UNITED STATES SENATE.
SUBCOMMITTEE OF THE COMMITTEE ON
BANKING AND CURRENCY,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to adjournment on yesterday, in Room No. 301 of the Senate Office Building, Senator Duncan U. Fletcher presiding.

Present: Senators Fletcher (chairman), Adams, Townsend, and Couzens.

Present also: Ferdinand Pecora, counsel to the committee; Julius Silver and David Saperstein, associate counsel to the committee; and Frank J. Meehan, chief statistician to the committee.

The CHAIRMAN. The subcommittee will come to order, please. Mr. Pecora, who will you have first this morning?

Mr. PECORA. Mr. Blair.

The CHAIRMAN. Mr. Blair, will you please come forward to the committee table, hold up your right hand, and be sworn? You solemnly swear that you will tell the truth, the whole truth, and nothing but the truth, regarding the matters now under investigation by the committee. So help you God.

Mr. BLAIR. I do.

TESTIMONY OF FRANK W. BLAIR, DETROIT, MICH., PRESIDENT OF THE UNION JOINT STOCK LAND BANK OF DETROIT

Mr. PECORA. Mr. Blair, will you kindly give your name, address, and business occupation to the committee reporter?

Mr. BLAIR. My name is Frank W. Blair; residence, Lake Orion, Mich.; office, 640 Free Press Building, Detroit.

Mr. PECORA. What is your business or occupation?

Mr. BLAIR. At the present time and for the past 10 years, since it was organized, I have been president of the Union Joint Stock Land Bank of Detroit. From 1908 until 1930 I was president of the Union Trust Co. of Detroit, and in 1930 and 1931 I was chairman of the board, first of the Union Trust Co. and then of its successor, the Union Guardian Trust Co.

Mr. PECORA. Were you also connected as officer or director, or both, with the Guardian Detroit Union Group, Inc.?

Mr. BLAIR. Yes. I was chairman of the board of the Guardian Detroit Union Group, Inc., from the time it became the Guardian Detroit Union Group, Inc., until the annual meeting in 1932.

Mr. PECORA. Did you continue to serve as a director of the Guardian Detroit Union Group, Inc., after you ceased being chairman of the board?

Mr. BLAIR. Yes; for 1 year.

The CHAIRMAN. When was the annual meeting in 1932?

Mr. BLAIR. Why, it was some time in the latter part of January, and I have forgotten the exact date, Senator Fletcher.

Mr. PECORA. It was usually held in January of each year?

Mr. BLAIR. Yes.

Mr. PECORA. I want to ask you particularly at this time about the Union Guardian Trust Co., formerly known as the Union Trust Co., of which you have just stated you were president from 1908 up to 1931, both inclusive.

Mr. BLAIR. I was president up to—

Mr. PECORA (interposing). Up to 1930.

Mr. BLAIR. Yes; and—

Mr. PECORA (continuing). And in 1930 and 1931 you became chairman of the board?

Mr. BLAIR. Yes, sir.

Mr. PECORA. Do you know when the Union Trust Co. of Detroit was organized?

Mr. BLAIR. In 1891.

Mr. PECORA. Was it organized or incorporated under the banking laws of the State of Michigan?

Mr. BLAIR. No. It was organized under what was known as the "trust company law", which was a separate law from the banking law.

Mr. PECORA. From its inception did it engage in any commercial banking business?

Mr. BLAIR. No. It was prohibited from doing a general banking business.

The CHAIRMAN. Did it receive deposits?

Mr. BLAIR. It received deposits, yes; on certificates.

The CHAIRMAN. All right.

Mr. PECORA. I have before me what purports to be a photostatic copy of the articles of association of the Union Trust Co., and I will read from article III therof:

The purpose and object of the corporation is to carry on a trust, deposit, and security business, and any other business authorized by the provisions of act 108 of the public acts of 1889 and acts amendatory thereof.

Does that confirm your recollection of the fact?

Mr. BLAIR. Yes.

Mr. PECORA. And act no. 108 of the public acts of 1889 of the State of Michigan were what?

Mr. BLAIR. What they called the Trust Company Act.

Mr. PECORA. After the organization in 1891 of this trust company did it, under authority conferred upon it so to do, engage in the banking business as distinguished from the trust business?

Mr. BLAIR. It received deposits on certificate.

Mr. PECORA. On certificates of deposit?

Mr. BLAIR. On certificates of deposit, and it accepted deposits for investment.

Mr. PECORA. Were any of those deposits that it received payable on demand?

Mr. BLAIR. At first they were not, but latterly practically all of them were payable on demand.

Mr. PECORA. Now, when did the Union Trust Co. begin to receive deposits payable on demand?

Mr. BLAIR. Prior to my connection with the company.

Mr. PECORA. Which was prior to 1908?

Mr. BLAIR. Yes.

Mr. PECORA. And you do not know when it was?

Mr. BLAIR. No.

Mr. PECORA. Well, from 1908 down it was customary for it to receive demand deposits?

Mr. BLAIR. I wouldn't say that it was customary to receive demand deposits, just in that way. It did take deposits payable on demand when it could not get them in some other way. Perhaps I might say that.

Mr. PECORA. And issued its certificates of deposits?

Mr. BLAIR. Not certificates of deposit, generally, when it received deposits that way. There were deposits received in open accounts, not subject however to check.

Mr. PECORA. Well, how were they made payable; on demand? Or, how was withdrawal effected?

Mr. BLAIR. By letter, ordinarily.

The CHAIRMAN. By what?

Mr. BLAIR. By letter, ordinarily.

Mr. PECORA. By letter ordinarily, he said.

Mr. BLAIR. Yes.

Mr. PECORA. Or on oral demand?

Mr. BLAIR. Yes.

The CHAIRMAN. But with no checks drawn?

Mr. BLAIR. No checks; no.

Mr. PECORA. Now, Mr. Blair, did the trust company, after it commenced to receive deposits, both deposits payable on demand and time deposits, segregate those funds into any classifications?

Mr. BLAIR. I do not know that I get the purpose of the question?

Mr. PECORA. Well, how were those funds received from depositors, treated by the trust company?

Mr. BLAIR. As general funds of the company. Perhaps what is in your mind is that sometime subsequent to my becoming connected with the company, we segregated the balances held for the account of trusts, in a separate classification, and deposited those balances in outside banks.

Mr. PECORA. Well, when did it commence to treat and deal with those deposits in that fashion?

Mr. BLAIR. I should say about 1910, perhaps, but I cannot give you the exact date.

Mr. PECORA. Did it use any terminology in classifying those deposit funds in that fashion?

Mr. BLAIR. As class A funds.

Mr. PECORA. They were class A funds?

Mr. BLAIR. Yes, sir.

Mr. PECORA. Now, Mr. Blair, did it also maintain a classification of deposit funds known as class B funds?

Mr. BLAIR. Yes.

Mr. PECORA. Will you describe, briefly, to the committee the attributes of the class A funds and the attributes of the class B funds?

Mr. BLAIR. Class A funds were pure trust funds, where the relationship between the trust company and the owner of the funds was a purely trust relationship. Class B funds were more in the nature of deposit funds, or they were balances belonging to so-called "trusts", where the owner of the trust maintained the right—or I should say retained the right to determine to what use the money should be put and how it should be invested.

Mr. PECORA. Would you agree to the following definition of the class A funds as contained in the report of the State bank examiner, which report is dated November 6, 1931, and in which he referred to the class A funds as "class A trust funds", and defined them as follows:

And a trust is a court trust, executor, administrator, guardian, etc., and a collection trust where the funds on deposit are of a fiduciary character or represent deposits with the company of a temporary nature. It is contended that the trusts classed under this heading have been very carefully selected and that special care has been taken to place in this classification all trusts in which the trust company has no right to make use of the cash balances, and on these trusts a 100-percent reserve is carried.

Mr. BLAIR. Practically so; yes.

Mr. PECORA. And would you subscribe to this designation or definition of the class B trust funds, also contained in that same report of the State bank examiner:

A B trust is a voluntary or revenue trust, in which the trust indenture gives the company power to invest trust balances. A 10-percent reserve is supposed to be maintained on these cash balances. According to a recent ruling of the commissioner, the percentage of reserve on the B funds should be 20 percent. The A funds are payable on demand, and about 10 percent of the B funds are payable on demand.

Mr. BLAIR. I would not subscribe to that part which indicates that the commissioner has the right to fix the percentage of reserve. The trust company law of the State of Michigan fixes the reserve which a trust company shall keep as 20 percent of its matured obligations. Nobody has ever been able to tell me just exactly what the legislature had in mind when it made that provision for a reserve, because I never could find, outside of the A funds, any obligation of the trust company which has matured.

Mr. PECORA. In other respects would you subscribe to this definition of the class B trust funds?

Mr. BLAIR. Very generally; yes, sir.

Mr. PECORA. In addition to these class A and class B trust funds, the trust company, if I correctly understood your testimony as it has been given so far, received on deposit general funds and issued therefor its certificates of deposit.

Mr. BLAIR. Yes; and for some years in addition to that it had a form of deposit which was called investment deposits, which were in a small book, with an agreement in the front of the book. Those funds, however, disappeared from the trust company after the Union

Commerce Corporation was formed, when they were transferred to the National Bank of Commerce in one block.

Mr. PECORA. When did that happen?

Mr. BLAIR. The transfer?

Mr. PECORA. Yes.

Mr. BLAIR. Oh, I should say either late in 1928 or perhaps early in 1929.

Mr. PECORA. Now, what disposition was made by the trust company during the period of time that you were its president and for the 2 subsequent years when you were chairman of its board, of the class A trust funds?

Mr. BLAIR. Well—

Mr. PECORA. I believe you said, if I correctly understood you, those funds were placed on deposit with other banks.

Mr. BLAIR. Yes, sir.

Mr. PECORA. Was that always the case?

Mr. BLAIR. We kept none in the trust company.

Mr. PECORA. Were they kept in any banks after the organization of the Guardian Detroit Union Group, Inc., and its predecessor, than banks that were units of the group?

Mr. BLAIR. We found ourselves, of course, when the groups were formed, with balances in banks which became our associates, and it took some time, and I don't know just when it was entirely done, to transfer those balances from banks with which the trust company was closely associated to outside institutions.

Mr. PECORA. By "outside institutions" you mean banks that had no affiliation with the group?

Mr. BLAIR. Yes.

Mr. PECORA. When was that effected?

Mr. BLAIR. I don't know. It had not been completely effected when I left the trust company.

Senator COUZENS. Didn't Mr. Bodman give an opinion that you should not have those trust funds in any of your affiliates?

Mr. BLAIR. I don't know. But I should think it very likely he would, because we all felt that was the correct way.

Mr. PECORA. Had you finished your answer?

Mr. BLAIR. Yes.

Mr. PECORA. Mr. Bodman was a director of the trust company, was he not?

Mr. BLAIR. He was a director of the Guardian Trust Co., and after the consolidation a director of the Union Guardian Trust Co. He was not a director of the Union Trust Co.

Mr. PECORA. Well, now, was this transfer of those class A trust funds by your trust company effected before or after the creation of the Union Guardian Trust Co.?

Mr. BLAIR. Afterwards.

Mr. PECORA. You say it was afterwards?

Mr. BLAIR. Yes, sir.

Mr. PECORA. When was the Union Guardian Trust Co. organized, or when was it created?

Mr. BLAIR. Well, the Union Guardian Trust Co. was a continuation of the Union Trust Co. under the name of Union Guardian

Trust Co. After the consolidation was effected—well, as I remember it, that was as of March 31, 1930.

Mr. PECORA. Prior to March 31, 1930, did the Union Trust Co. maintain on deposit in banks connected with the Group, those class A trust funds?

Mr. BLAIR. It had some funds of that kind with the National Bank of Commerce; Yes.

Senator COUZENS. When you issued your statements, Mr. Blair, did you classify your deposits in your published statements as A and B deposits?

Mr. BLAIR. No; we did not.

Senator COUZENS. They were just in one gross sum?

Mr. BLAIR. Yes.

Mr. PECORA. Now, Mr. Blair, the class A trust funds were those funds with respect to which the trust company merely bore a fiduciary or trust relationship?

Mr. BLAIR. Yes.

Senator COUZENS. Mr. Blair, or I will ask Mr. Pecora: As I understood the definition given by the State bank examiner, he made some reference to temporary deposits, deposits outside of those that bore a fiduciary relationship. Is that correct?

Mr. PECORA. Yes, Senator Couzens. He said that the A trust is a court trust, and a collection trust were funds on deposit rather of a fiduciary character or representing deposits with the company of a temporary nature.

Senator COUZENS. That is what I thought.

Mr. BLAIR. Oh, then I did not get that when you read it.

Mr. PECORA. Well, that is the definition embodied in his report of November 6, 1931.

Senator COUZENS. That is where I thought you were mistaken, Mr. Blair. I did not understand that those temporary deposits bore any fiduciary relationship.

Mr. BLAIR. No. And I did not get that last part of it when Mr. Pecora read it.

Mr. PECORA. Do you disagree with that?

Mr. BLAIR. I disagree as far as temporary deposits are concerned.

Mr. PECORA. Deposits of a temporary nature?

Mr. BLAIR. Yes. It is possible we might receive deposits and arbitrarily put them in class A funds, so that we would not loan the money, but it was not intended generally to include temporary deposits in class A funds.

Senator COUZENS. Did you pay interest on temporary deposits?

Mr. BLAIR. Oh, I think that would all depend upon the deposit.

Senator COUZENS. Did you pay interest on some of them?

Mr. BLAIR. Yes.

Senator COUZENS. For whatever period the deposit remained with you?

Mr. BLAIR. Yes. We had a constantly changing situation with respect to trust-company deposits. The rates changed from time to time by agreement among the trust companies.

Senator COUZENS. Well, you know it has been a practice that deposits are made with a trust company with a stipulation that if

withdrawn in less than 30 days no interest is paid, and if left for 60 days a certain amount of interest is paid, and if left for 90 days a certain amount of interest is paid, and if left for a year a certain amount of interest is paid.

Mr. BLAIR. The arrangement for that kind of deposit was one that was made in later years, not in the earlier years.

Senator COUZENS. And they were not class A deposits, were they?

Mr. BLAIR. Oh, no.

Senator COUZENS. All right.

Mr. PECORA. Class A trust funds were as a rule funds that were entrusted to the trust company for investment purposes, or for some specified purpose and not for the account of the depositor.

Mr. BLAIR. The most of those funds represented income on trusts which had been created; that is, it was the cash income received.

Mr. PECORA. In its annual reports it is disclosed that those funds were carried as a part of the general deposit accounts, isn't it?

Mr. BLAIR. I think they called everything trust funds in the most of our reports. (After looking through some papers.) I find in February 1928—

Mr. PECORA. What year did you say?

Mr. BLAIR. 1928. We called them trust deposits.

Mr. PECORA. And all deposits, whether they fell under class A or class B—

Mr. BLAIR. Were included.

Mr. PECORA. Were grouped in the reports under the head of trust deposits?

Mr. BLAIR. Yes. In the published statements I think the department in Lansing, that is, the banking department, required some different classification. I have forgotten just what it was.

Mr. PECORA. Now, was a 100 percent reserve maintained by the trust company against the class A deposits?

Mr. BLAIR. Yes, sir.

Mr. PECORA. At all times?

Mr. BLAIR. Yes; from 1910 on.

The CHAIRMAN. What did you do with those other funds? How did you invest them or loan them?

Mr. BLAIR. The deposits?

The CHAIRMAN. Yes.

Mr. BLAIR. In mortgages, collateral loans, bonds—

The CHAIRMAN. Mortgages on real estate?

Mr. BLAIR. Yes.

The CHAIRMAN. Collateral loans, bonds, and what?

Mr. BLAIR. And bonds.

The CHAIRMAN. No commercial business?

Mr. BLAIR. Oh, no commercial business whatever.

Mr. PECORA. And to what extent was a reserve maintained by the trust company against class B trust funds or deposits?

Mr. BLAIR (after looking through some papers). We maintained, or we attempted to keep, a 10-percent reserve against B funds.

Mr. PECORA. You say you attempted to do it. Did you succeed?

Mr. BLAIR. Not always. That was purely a voluntary thing on our part. The law did not require it.

Mr. PECORA. Referring again to the definition in the statement of the examiner's report of November 6, 1931, in which he said [reading]:

A "B" trust is a voluntary or living trust in which the trust indenture gives the company the power to invest the trust balances. A 10-percent reserve is supposed to be maintained on these cash balances.

What do you understand by that reference by the State examiner in his report to the 10-percent reserve being supposed to be maintained on these cash balances?

Mr. BLAIR. That is what I stated just a little while ago, that we attempted to maintain either cash or quick assets amounting to 10 percent of such funds.

Mr. PECORA. What was the initial capital structure of the Union Trust Co., do you know?

Mr. BLAIR. It had a capital of \$500,000.

Mr. PECORA. Represented by 5,000 shares of stock of a par value of \$100?

Mr. BLAIR. I have no doubt that is so.

Mr. PECORA. Subsequently, at various times, there were increases in the capital structure of the trust company, were there not?

Mr. BLAIR. Yes, sir.

Mr. PECORA. Can you give the committee a brief history of those increases; that is to say, when they were effected, how, and at what times?

Mr. BLAIR. May I go to some length in making an answer to that?

Mr. PECORA. Yes, sir.

Mr. BLAIR. My answer begins with my first connection with the company.

Senator COUZENS. What year was that?

Mr. PECORA. 1908.

Mr. BLAIR. 1908. On the last day of—

Mr. PECORA. Pardon me a moment, Senator. Mr. Blair has testified that from 1908 to 1930 he was president of the Union Trust Co., and in 1930-31 he was chairman of the board; that on March 31, 1930, the trust company consolidated with the Guardian Trust Co. and became known thereafter as the Union Guardian Trust Co.

Go ahead, Mr. Blair, please.

Mr. BLAIR. On the last day of December 1907 the board of directors of the trust company were in a panic. This is hearsay, of course, because I was not present at the meeting. A motion was made to place the company in receivership. Two or three men who had been with the trust company for a great many years—I think all of them, perhaps, from the beginning—asked for time in which to endeavor to work out the affairs of the trust company. A committee was appointed, of which Mr. Henry Russel, who was then general counsel for the Michigan Central Railroad, was chairman.

Mr. Russell interviewed some members of the board of directors and secured from them outright gifts to the company amounting to something like \$1,100,000 in securities and property. That money, or rather those securities and property were turned over without any strings attached to them whatever. The trust company at that time had bad assets amounting to its capital and surplus. It had

uninvested trust funds considerably in excess of its cash on hand. In other words, the situation was very bad.

Some time was spent in getting this fund together, and some time was spent in finding someone to head the trust company. About 20 men, I think, were asked to take the job before I was asked to take it.

Senator COUZENS. Who was the head of the trust company at the period you are describing now?

Mr. BLAIR. Mr. Ferry was president, but inactive. Mr. Hance was executive vice president.

Senator COUZENS. Elwood Hance?

Mr. BLAIR. Elwood T. Hance. I went in on February 13, 1908, and immediately, with Mr. Russel's help, began to try to build up the cash balances. We used the securities which had been given the company to borrow money. We borrowed most of the money at the Guaranty Trust Co. in New York. It took 2 years, as I remember it, for us to get enough money accumulated to make the segregation, which we carried on after that, of "A" funds from all other funds of the company.

Having done that, we went to the stockholders in 1912 with a request that they furnish us with an additional \$500,000 capital in order that we might return to the people who had given the securities to the company, those securities. That accounts for the increase in capital in 1912 from \$500,000 to \$1,000,000.

Mr. PECORA. Was that accomplished through the issuance of 5,000 additional shares having a par value of \$100?

Mr. BLAIR. Yes.

Mr. PECORA. When was the next increase in the capital structure of the trust company?

Mr. BLAIR. I should say in 1923. The \$1,000,000 capital then existing was doubled.

Senator COUZENS. By what means?

Mr. BLAIR. The sale of an additional amount of capital stock, I think, at par.

Mr. PECORA. With regard to that, Mr. Blair, let me read to you what purports to be an extract from the minutes of the meeting of the stockholders of the Union Trust Co. held on August 29, 1923. This excerpt is taken from page 213 of the minute book at that time [reading]:

Whereas it is desirable and beneficial that the capital stock of the company be increased from \$1,000,000 to \$2,000,000: now, therefore be it

Resolved, That we, the stockholders of the Union Trust Co. of Detroit, Mich., at a special meeting of stockholders duly called and held this 29th day of August, A.D. 1923, at the office of the company, do hereby approve and authorize increasing the capital stock of this company from 10,000 shares of \$100 each par value to \$2,000,000 in all, such increase to take effect as of the first day of October, A.D. 1923; and do further authorize and direct the issuance and execution of all proper documents and certificates and the filing thereof to carry the said increase into full force and effect: Be it further

Resolved, That the issuance to the present stockholders of the company of record at the close of business August 29, 1923, of warrants in the following

form, evidencing their right to subscribe to the increased stock, be and it is hereby authorized and approved.

This was August 29, 1923. Does that accord with your recollection?

Mr. BLAIR. I think so; yes.

Mr. PECORA. Additional stock was issued to the existing stockholders of record?

Mr. BLAIR. Yes.

The CHAIRMAN. Was there double liability on that stock?

Mr. BLAIR. Yes.

Mr. PECORA. When did the next increase in the capital of the trust company take place?

Mr. BLAIR. In 1927 there was a stock dividend of 25 percent.

Mr. PECORA. That is 5,000 shares?

Mr. BLAIR. Yes. Those would be \$100 shares.

Mr. PECORA. Still having a par value of \$100?

Mr. BLAIR. \$100.

Mr. PECORA. That operated to increase the capital structure to \$2,500,000?

Mr. BLAIR. That is the capital account proper; yes.

Mr. PECORA. According to the minute book of the stockholders of the Union Trust Co., that took effect on January 12, 1927. Does that accord with your recollection?

Mr. BLAIR. I think so; yes. It was during that year.

Mr. PECORA. And that dividend, of course, was declared out of the company's undivided profits?

Mr. BLAIR. Yes, I think so—or surplus, possibly.

Mr. PECORA. In that connection, let me read to you this excerpt from the minutes of the stockholders' meeting of the trust company held on January 12, 1927, pages 53 and 54 of the minute book of that time. The following resolution was then offered [reading]:

Whereas it appears that a stock dividend of 25 percent may be properly declared and paid out of the company's undivided profits, it is hereby resolved that the board of directors of this company be, and are hereby, authorized to declare at this time a dividend of 25 percent to the stockholders of the company, payable in the company's stock, on the basis of the par value thereof, and to be distributed in proportion to their respective stockholdings; and to acquire and dispose of fractional shares resulting from said distribution in its discretion.

Which resolution was on motion duly supported and unanimously adopted.

That accords with your recollection?

Mr. BLAIR. Yes.

The CHAIRMAN. Apparently you had got the company in better shape by that time?

Mr. BLAIR. We thought it was.

The CHAIRMAN. Did your chief difficulty arise out of loans on real estate?

Mr. BLAIR. On all loans of all kinds.

Mr. PECORA. When did the next increase in the capital structure of the trust company take place?

Mr. BLAIR. Some time in the year 1929.

Mr. PECORA. January 29 of that year?

Mr. BLAIR. I do not know. It might possibly have been.

Mr. PECORA. I have what purports to be an extract from the minutes of the meeting of the stockholders of the Union Trust Co.,

held on January 29, 1929, pages 228 and 229 of the minute book of that time, from which it appears that the following resolution was offered and adopted [reading]:

Be it resolved, That under the provisions of section 2 of the act 108, public acts of 1889, the capital stock of this corporation be increased in the sum of \$2,500,000, making the total capital \$5,000,000; and that the fourth subdivision of the original articles of incorporation of said corporation be amended so as to read as follows:

"Fourth. The capital stock of this corporation shall be \$5,000,000, and the same shall be divided into 50,000 shares of \$100 each."

Be it further resolved, That said additional stock of said Union Trust Co. be offered for sale to the stockholders thereof at the close of business on February 6, 1929, at \$300 per share, said offer to be ratably in accordance with their respective holdings as the same may appear on the books of the corporation, payment therefor to be made to said Union Trust Co. on or before the 31st day of March 1929, and in the event payment at the rate aforesaid is not made for said stock on or before the said last mentioned date, the right to subscribe therefor shall cease and terminate.

And be it further resolved that the board of directors of this corporation be, and they are hereby authorized and directed to sell, at not less than \$300 per share, such part of said 25,000 shares of stock of said Union Trust Co. as shall not be subscribed by the stockholders on or before the said 31st day of March 1929.

Be it further resolved, That the officers and directors of this corporation be, and the same are hereby authorized and directed to take all necessary and appropriate proceedings as may be required by law to advise stockholders to make provision for calling in and canceling the old and issuing the new certificates of stock, and to otherwise make such increase effective.

Which resolution was, on motion, duly supported and adopted by the unanimous vote of the entire 23,584 shares of stock present or represented at the meeting.

The following resolution was then offered [reading]:

Be it resolved, That in view of the previous action of the stockholders and directors of this corporation unifying the shares of stock of this corporation with the shares of stock of Union Co. of Detroit, in the letter of the secretary of this company advising stockholders of their rights to subscribe to the increased stock of this company, that said secretary advise said stockholders that subscriptions to such increase will only be accepted subject to stockholders also exercising their rights to subscribe to the increased stock of said Union Co. of Detroit.

Which resolution was on motion duly supported and adopted by unanimous vote.

Does that accord with your recollection of the fact?

Mr. BLAIR. Yes.

Mr. PECORA. That operated to increase the capital to \$5,000,000, represented by 50,000 shares having a par value of \$100 each?

Mr. BLAIR. Yes, sir.

Mr. PECORA. When was the Union Co. of Detroit, referred to in the resolution that I last read to you, incorporated?

Mr. BLAIR. About 1923. I cannot remember the exact date.

Mr. PECORA. Was it incorporated at the instance of the Union Trust Co.?

Mr. BLAIR. Yes.

Mr. PECORA. What kind of business was the Union Co. of Detroit designed to transact?

Mr. BLAIR. There is a little story connected with it.

Mr. PECORA. Well, give it to us.

The CHAIRMAN. Before you take that up, may I ask if, in this increase of stock, these shares were taken by the stockholders or sold to the public?

Mr. BLAIR. I cannot tell you whether all of them were taken or not, but I assume that they were all taken by the people who had the first right to take them. All the shares were sold. Whether or not any of them were reoffered after the first offering, I do not know.

For a year or two prior to 1923 the trust company had been making loans for insurance companies and other outside companies—mortgage loans. They were getting some profits from the making of those loans.

Mr. PECORA. As trustee?

Mr. BLAIR. Not as trustee, but making them as agent for the lender.

The CHAIRMAN. Getting a commission?

Mr. BLAIR. On a commission. We did not think—and when I say "we" I refer to the officers and the members of the executive committee—that it was well to include those earnings as a part of the general earnings of the trust company, so we established a trust. I have forgotten what we called it, but as these earnings came in they were transferred to this trust. They were, we will say, hidden profits of the company. About 1923 the banking department objected to that way of carrying these profits.

Mr. PECORA. What was the objection, Mr. Blair?

Mr. BLAIR. That possibly some stockholder might transfer his stock at the market price, without knowing of the existence of these hidden profits.

Mr. PECORA. What was the purpose of keeping those profits in a so-called hidden profits account?

Mr. BLAIR. So that if we had any losses, we could charge them direct, without affecting our undivided profits.

Mr. PECORA. Could not that have been done by adding the profits to the profits account as they accrued and accumulated?

Mr. BLAIR. Oh, yes. It could have been done that way, but it was a general practice with banks in those days to carry hidden reserves against which losses could be charged, in order that the undivided-profits account would not show violent fluctuations and possibly disturb depositors and stockholders.

Mr. PECORA. Were those hidden profits reported in the annual statements or reports to stockholders?

Mr. BLAIR. We made no reports in written form, but at the annual meetings we were very careful to tell them what they as stockholders of the trust company owned.

Mr. PECORA. That practice was objected to by the State banking department some time in 1923?

Mr. BLAIR. I should say so; yes. We then formed the Union Co., with the capital furnished by these profits, and put the Union Co. certificate on the back of the trust company certificate.

Mr. PECORA. Mr. Blair, let me interrupt you for a moment. I have before me what purports to be a photostatic reproduction of the articles of association of this Union Co. of Detroit. Article 3 thereof reads as follows [reading]:

ARTICLE 3. The purpose or purposes of this corporation are as follows:

To engage in the business of buying, selling, holding, mortgaging, hypothecating, and pledging of land contracts, stocks, bonds, mortgages, promissory notes, bills of exchange, trade acceptances, and other commercial paper in evidence of indebtedness, including invoices and book accounts; and dealing

in and holding and loaning on securities of every name and nature; and to engage in the business of buying, improving, holding, selling, and dealing in real estate, and to do a general building and contracting business.

Mr. BLAIR. If we left anything out, it was not done intentionally.

Mr. PECORA. Does this accord with your recollection of the purposes for which this company was organized, as embodied in its articles of association?

Mr. BLAIR. If you mean by that question the purpose we had in mind for using the company, then this authority was a great deal broader than was necessary; but it was thought well to get authority to do anything we might find it necessary in future years to do. The primary purpose, I might say—I won't—the purpose of organizing, but what we had in mind as investments for this company were second mortgages and land contracts.

About that time, as the Senator will remember, the Detroit Evening News put on a great campaign for the building of homes, and made an arrangement with us—by "us" I mean the Union Trust Co.—to make first- and second-mortgage loans to people who wanted to build homes. We made the first-mortgage loans for the trust company, and took a great many second-mortgage loans for the Union Co. I think those second-mortgage loans went as high as \$1,000,000 at one time.

Senator COUZENS. Was it the Michigan charter you got under those articles?

Mr. BLAIR. Yes, sir.

Mr. PECORA. Let me read to you the following extract from the minutes of the meeting of the stockholders of the Union Trust Co. held on December 9, 1924. I am reading from an excerpt appearing at page 301 of the minute book of that time. You were then the president of the company?

Mr. BLAIR. Yes, sir.

Mr. PECORA. The excerpt reads as follows [reading]:

The president submitted a statement of the earnings and expenses of the Union Trust Co., of the Union Title & Guaranty Co., the Union Co. of Detroit, and the so-called "Real Estate Trust", for the month of November, and also a similar statement for the 11 months ended November 30, 1924, as compared to the corresponding periods in the preceding year; and also submitted a balance sheet of the Union Co. of Detroit, of the Union Title & Guaranty Co., and of the so-called "Real Estate Trust", and briefly explained these several accounts and the earnings accumulated therein which had not been taken up in the books of the Union Trust Co.

The president made further reference to the fact that the commissioner of the banking department had objected to the Union Trust Co. carrying on, through the medium of the Union Co. of Detroit, certain activities which it could not properly carry on in its own name; that, without necessarily accepting the correctness of the commissioner's position, it had been proposed, for the purpose of meeting his objection, that the stock of the Union Co. of Detroit be distributed among the shareholders of the Union Trust Co., and that the executive committee, at its meeting held Friday, December 5, 1924, had recommended to the stockholders that this step be taken.

The president emphasized, however, the extreme importance of continuing in one ownership the stocks of the Union Trust Co. and the Union Co. of Detroit.

The following resolution was accordingly introduced:

"Resolved, That the board of directors of this corporation be, and they are hereby, requested to distribute to the shareholders of this corporation, in proportion to their respective holdings, the stock of the Union Co. of Detroit

held by this corporation; that such distribution be made at such time or times, and to the shareholders of such date, as the board of directors may deem desirable;

"That the board of directors be given further authority to cause to be increased or decreased the total capital of the said Union Co. of Detroit, to any extent they may deem desirable to facilitate its proportional distribution; that in making such distribution the board are hereby directed to do it in such manner as to require any transfer, by operation of law or otherwise, of the stock of either corporation to carry with it the stock of the other, so that at all times the shares of both corporations shall continue to be held individually in one ownership and in the same relative proportion; and that they be further authorized and empowered to take all steps and do all things necessary or appropriate in their judgment to carry into effect the purpose and intent of this resolution."

On motion duly supported and carried by the unanimous vote of all the stock of the company present or represented, the said resolution was adopted.

Do you recall those proceedings at the meeting of the stockholders of the Union Trust Co. held on December 9, 1924?

Mr. BLAIR. I do not know that I remember them exactly, but I have no doubt that that is an exact statement of what took place. As I remember now, after we organized the Union Co. out of the profits, we still held the stock in a trust for the benefit of our stockholders, and the banking commissioner objected to that, as hidden profits, as well as the other, so we took this method of distributing this profit to the stockholders.

Senator COUZENS. How much money did you take out of the Union Trust Co. to organize the Union Co. with; do you remember?

Mr. BLAIR. I suppose there must have been \$200,000 of hidden profits taken in, because one \$10 share of Union Co. stock was printed on the back of a \$100 share of trust company stock, so that it would require, in 1924, \$200,000 capital for the Union Co.

Senator COUZENS. That was its capital, was it—\$200,000?

Mr. PECORA. No. According to the Articles of Association from which I heretofore read, a photostatic copy of which I have in my hand, the total capital stock authorized originally for the Union Co. was \$100,000, represented by 10,000 shares having a par value of \$10 each.

Mr. BLAIR. I think you will find that when we made the distribution its capital stock was \$200,000, because my remembrance is—I am quite certain it was distributed on the basis of one share for one share.

Senator COUZENS. It must have been increased later, after the articles of incorporation.

Mr. BLAIR. Yes.

The CHAIRMAN. What was your experience with this \$1,000,000 of second mortgages?

Mr. BLAIR. I have been told that those original mortgages have been paid down to something less than \$100,000. I have no accurate knowledge myself.

Senator COUZENS. When did you leave as executive officer of the Union Guardian Trust Co.?

Mr. BLAIR. On January 13, 1932.

Senator COUZENS. Who succeeded you?

Mr. BLAIR. Mr. Bodman succeeded me as chairman, though I believe there was some change in the bylaws affecting his duties. I am not just positive about that. I doubt if his duties were the same as mine.

Senator COUZENS. Did you remain on the board after that?

Mr. BLAIR. Yes.

Mr. PECORA. There has been a reference made to a corporation called the Union Title & Guaranty Co. That was a wholly owned subsidiary of the Union Trust Co., was it not?

Mr. BLAIR. Yes.

Mr. PECORA. And will you tell the committee briefly the history of the Union Title & Guaranty Co.?

Mr. BLAIR. Beginning very early in its career the Union Trust Co. maintained an abstract business and title guaranty business also. I don't remember when the Union Title & Guaranty Co. was formed.

Mr. PECORA. My information is it was in 1917.

Mr. BLAIR. Well, I have no doubt that that is correct.

Mr. PECORA. And it was incorporated under the laws of the State of Michigan.

Mr. BLAIR. Yes.

Mr. PECORA. With an original authorized capital of \$500,000.

Mr. BLAIR. Yes. And that company took over the abstract business of the trust company, which was paid for with capital of the company.

Mr. PECORA. Of the trust company?

Mr. BLAIR. No; paid for with capital of the title company.

Mr. PECORA. Subsequently the original capitalization of \$500,000 was increased to a million dollars?

Mr. BLAIR. Yes. I believe that was increased out of earnings, as I remember it.

Mr. PECORA. All of the capital stock of the Union Title & Guaranty Co. was owned, with the exception of directors' qualifying shares, by the trust company?

Mr. BLAIR. Yes, sir.

Senator COUZENS. And was the money taken out of the trust company to create the title company?

Mr. BLAIR. Originally, you see, the trust company built up the abstract books and title business and had invested several hundred thousand dollars in those books and records. The trust company itself had issued title policies, a great many of them, but I did not like to have the trust company liable for that sort of a guaranty.

Mr. PECORA. That was a title insurance business?

Mr. BLAIR. Yes; title insurance. And finally I told our people that we must if we continued the business, publish with our statements the amount of title insurance which the trust company made itself responsible for, and that set us all thinking, and we decided then to form this title company to assume those obligations and to issue title policies in the future.

Senator COUZENS. I was asking how you got the capital or where you got it to organize the title company.

Mr. BLAIR. Out of the trust company.

Mr. PECORA. This title company had title business covering real property in three counties, namely, Wayne, Macomb, and Oakland Counties?

Mr. BLAIR. Yes.

Mr. PECORA. And conducted a general title insurance business in those three counties?

Mr. BLAIR. And all over Michigan as well, through contracts with abstract companies in other localities.

Mr. PECORA. When was the consolidation of the National Bank of Commerce effected?

Mr. BLAIR. I don't know that I like to call it a consolidation.

Mr. PECORA. Well, call it a merger.

Mr. BLAIR. No.

Mr. PECORA. What would you call it?

Mr. BLAIR. An affiliation.

Mr. PECORA. When was it effected?

Mr. BLAIR. I think in May 1928.

Mr. PECORA. On what basis? [After a pause:] Pardon me; before you come to that let me ask you this: You have already testified that in January 1929 the capital structure of the Union Trust Co. was increased from \$2,500,000 to \$5,000,000 through the issuance of 25,000 additional shares having a par value of \$100 each, but which 25,000 additional shares were sold at a price not less than \$300 per share. In other words, sold for \$7,500,000. Was 5 million dollars of that sum set aside and allocated to surplus?

Mr. BLAIR. I believe it was.

Mr. PECORA. And the other 2½ million added to the capital structure?

Mr. BLAIR. Yes.

Mr. PECORA. Bringing the total capital outside of surplus of the Union Trust Co. up to 5 million dollars?

Mr. BLAIR. I believe so; yes, sir.

Mr. PECORA. Now, tell us about the affiliation of the Union Trust Co. with the National Bank of Commerce in May 1928.

Mr. BLAIR. The talks leading up to the arrangement which we made culminated on October 24, 1927, in a memorandum, of which I have a copy, reading like this [reading]:

OCTOBER 24, 1927.

It is agreed between the signers of this paper that they will recommend to their respective boards of directors a consolidation of the interests they represent on the basis of pooling of stock on an equal share-for-share basis.

This is signed by Mr. Richard P. Joy, and Frank W. Blair, and below is a memorandum:

"The interests represented are Union Trust Co. and the National Bank of Commerce of Detroit."

At that time I believe we had in mind a plan of unification of stock rather than the formation of a holding company. Of course, neither Mr. Joy nor myself were lawyers. We turned this point over to counsel for the bank and for the trust company to work out a plan which would accomplish our purpose.

Senator COUZENS. Was Mr. Joy a member of the board of directors of the trust company at that time?

Mr. BLAIR. He was not.

Senator COUZENS. When did he leave the board of directors of the trust company, do you remember? He had been at one time a director.

Mr. BLAIR. Well, Mr. Joy was a director for a few minutes in 1911.

Senator COUZENS. From that time on he was not a director?

Mr. BLAIR. No. He became a director after this arrangement.

Senator COUZENS. Yes.

Mr. BLAIR. He was a director of the Detroit Trust Co. at the time this arrangement was made.

Senator COUZENS. In 1911; was that the time that Mr. Ledyard was chairman of your board?

Mr. BLAIR. Yes, sir.

Mr. PECORA. That affiliation between the National Bank of Commerce and the Union Trust Co. was effected in the manner that you have just indicated?

Mr. BLAIR. By the formation of a holding company, yes.

Mr. PECORA. And what was the name of that holding company?

Mr. BLAIR. Originally it was called the Union Commerce Investment Co. The name was later changed.

Mr. PECORA. To Union Commerce Investment Corporation?

Mr. BLAIR. I don't remember that. It was later changed to Union Commerce Corporation, I believe.

Mr. PECORA. When was the Union Commerce Investment Corporation organized or incorporated?

Mr. BLAIR. The only way I have of guessing at that is by looking at the subpoena, which says May 24, 1928, and I rather suspect that is the date of organization. I have no records to show it.

Mr. PECORA. On May 17, 1928, according to the certificate of incorporation of the Union Commerce Investment Co.

Mr. BLAIR. That is probably correct.

Mr. PECORA. That was incorporated under the laws of the State of Delaware, was it not?

Mr. BLAIR. Yes.

Mr. PECORA. I have before me what purports to be a photostatic copy of the certificate of incorporation of the Union Commerce Investment Co., and in the third paragraph thereof the nature of the business or the object or purposes for which it was incorporated are referred to as follows [reading]:

Third. The nature of the business or objects or purposes proposed to be transacted, promoted, or carried on, are:

To subscribe for, purchase, acquire, invest in, hold for investment or otherwise, own, trade, and generally deal in, and to use, sell, assign, transfer, pledge, mortgage, exchange, or otherwise dispose of, stocks, bonds, and other evidences of indebtedness of any corporation, domestic or foreign, public, quasi-public, or private, and to possess and exercise in respect thereof all rights, powers, and privileges of individual owners or holders of such stock, including the right to vote thereon and to execute proxies therefor.

Senator COUZENS. Just what was the purpose of that? Pardon me; I did not mean to interrupt.

Mr. PECORA. I have not finished. There is quite an enumeration of powers, objects, and purposes. I might just as well complete the record with respect thereto [reading]:

To do any and all things for the protection, improvement, and enhancement in value of such securities or evidences of indebtedness or of any thereof, or designed to accomplish any such purposes, to issue in exchange therefor its own stocks, bonds, or other obligations or securities, or otherwise pay therefor.

To aid by loan, subsidy, or in any other lawful manner whatsoever those issuing, creating, or responsible for any such securities and to do any and all lawful acts and things designed to protect, preserve, improve, or enhance the value of the property or enterprise represented by such securities or evidences of indebtedness.

To protect and assist, financially or otherwise, corporations, domestic or foreign, public, quasi-public, or private, firms, syndicates, associations, individuals, and otherwise, and to the extent permitted by law to give any guarantee in connection therewith for the payment of money or for the performance of any other undertaking or obligation.

To manufacture, purchase, or otherwise acquire, own, mortgage, pledge, sell, assign, transfer, or otherwise dispose of; to invest, trade, deal in, and deal with goods, wares, and merchandise, and real and personal property of every class and description.

To acquire and pay for cash, stock, or bonds of this corporation, or otherwise, the goodwill, rights, assets, and property, and to undertake or assume the whole or any part of the obligations or liabilities of any person, firm, association or corporation.

To issue bonds, debentures, or obligations of this corporation from time to time for any of the objects or purposes of the corporation and to secure the same by mortgage, pledge, deed of trust, or otherwise.

To purchase, hold, sell, and transfer the shares of its own capital stock, provided it shall not use its funds or property for the purchase of its own shares of capital stock when such use would cause any impairment of its capital, and provided further that shares of its own capital stock belonging to it shall not be voted upon directly or indirectly.

To have one or more offices to carry on all or any of its operations and business without restrictions or limit, as to amount, to purchase or otherwise acquire, hold, own, mortgage, sell, or otherwise dispose of, real and personal property of every class and description, in any of the States, Districts, Territories, or possessions of the United States and any and all foreign countries, subject to the laws of such State, District, territorial possession, or country.

In general, to carry on any other business in connection with the foregoing, and to have and exercise all the powers conferred by the laws of Delaware upon corporations formed under the act hereinafter referred to, and to do any or all of the things hereinbefore set forth to the same extent as natural persons might or could do.

The foregoing clauses shall be construed both as objects and powers; and it is hereby expressly provided that the foregoing enumeration of specific powers shall not be held to limit or restrict in any manner the powers of this corporation.

Pretty broad.

Mr. BLAIR. We left it up to our lawyers to get for us a charter, and I find usually that when we leave such matter to lawyers they take care of us.

Mr. PECORA. You could do almost anything under this charter but solemnize marriages or hold religious services?

Mr. BLAIR. Yes, sir.

Senator COUZENS. Who drew that, Mr. Blair?

Mr. BLAIR. That was drawn by Messrs. Warren, Hill & Hamblen, representing the National Bank of Commerce, and I think the firm was then called, probably, Campbell, Buckley & Ledyard, attorneys for the Union Trust Co.

Mr. PECORA. Now, Mr. Blair, will you be good enough to tell this committee why this corporation was incorporated under the laws of the State of Delaware?

Mr. BLAIR. I don't think I can. I rather have an idea that it was not thought that the Michigan corporation law authorized the formation of a corporation which could do what we wanted to do.

Mr. PECORA. What were the actual purposes which were effected by the Union Commerce Investment Co. on and after its incorporation? I mean what business did it actually transact? What kind of business did it conduct?

Mr. BLAIR. You mean the Union Commerce Corporation itself?

Mr. PECORA. Yes.

Mr. BLAIR. It simply held the stocks of its subsidiary companies.

Mr. PECORA. What were its subsidiary companies?

Mr. BLAIR. Originally the Union Trust Co., the Union Co. of Detroit, and the National Bank of Commerce. Of course, the Union Trust Co. owned all of the capital of the Union Title & Guaranty Co. Some time later the stock of the Griswold First State Bank was acquired.

Mr. PECORA. By this Union Commerce Investment Co.?

Mr. BLAIR. Yes.

Mr. PECORA. Through an exchange of stock?

Mr. BLAIR. Yes.

Mr. PECORA. How did this Union Commerce Investment Co. acquire the Union Trust Co.?

Mr. BLAIR. By an exchange of stock.

Mr. PECORA. And did it also acquire the Union Co. of Detroit in the same manner?

Mr. BLAIR. Yes.

Mr. PECORA. Isn't it a fact, Mr. Blair, that this Union Commerce Investment Co., incorporated under the laws of the State of Delaware, was the beginning of the adoption of group banking in the State of Michigan?

Mr. BLAIR. I don't think any other company had been formed prior to that time.

Mr. PECORA. Then would you say that it marked the origin of group banking in the State of Michigan?

Mr. BLAIR. Yes.

Mr. PECORA. And it was essentially designed to effectuate that, wasn't it?

Mr. BLAIR. It was so designed but at the time it was organized its organizers had no intention of going outside of the city of Detroit and Wayne County.

Mr. PECORA. It did eventually?

Mr. BLAIR. Yes, sir.

Senator COUZENS. Will you let him proceed with his other acquisitions outside of the Griswold?

Mr. PECORA. Yes.

Mr. BLAIR. I don't know, Senator, that I have anything to show that [after referring to papers]: I find that on March 19, 1930, it owned the Union Trust Co. of Detroit, the Union Co. of Detroit, the National Bank of Commerce of Detroit. That can't be right, because the Union Commerce Corporation was out of business in March 1930.

Mr. PECORA. It had merged in December 1929?

Mr. BLAIR. Yes.

Mr. PECORA. With the Guardian Detroit Co., had it not?

Mr. BLAIR. It merged in December 1929 with the Guardian Detroit Group.

Mr. PECORA. It merged in May 1929 with the Guardian Detroit Co., Inc.

Mr. BLAIR. No.

Mr. PECORA. Under the title of the Guardian Detroit Union Group, Inc.?

Mr. BLAIR. That was done in either December of 1929 or 1930.

Mr. PECORA. December 16, 1929.

Mr. BLAIR. Yes.

Mr. PECORA. It was merged then with what was then known as the Guardian Detroit Group, Inc.?

Mr. BLAIR. Yes; that is right.

Mr. PECORA. Under the name of the Guardian Detroit Union Group, Inc.?

Mr. BLAIR. Yes.

Mr. PECORA. All right. Now, prior to that merger or consolidation what banks, trust companies, and other kinds of corporations had been acquired by this holding company originally incorporated as the Union Commerce Investment Co.?

Mr. BLAIR. Prior to that time it owned 49,475 shares of the Union Trust Co. of Detroit and the same number of shares of the Union Co. of Detroit. It owned 49,660 shares of the National Bank of Commerce, 4,727 shares of Michigan Industrial Bank, 1,887 shares of the Union State Bank of Dearborn, 1,875 shares of the Bank of Commerce of Dearborn, 390 shares of the Trenton State Bank, 910 shares of the Jefferson Savings Bank, 5,963 shares of the Union Joint Stock Land Bank, 7,676 shares of the Ohio-Pennsylvania Joint Stock Land Bank, 56,264 shares of the City National Bank & Trust Co. of Battle Creek, 100,000 shares of Keane, Higbie & Co., 19,559 shares of the Union Industrial Bank of Flint, and 2,695.35 shares of the Union Industrial Trust Co. of Flint. It owned minority interests in the following banks—

Mr. PECORA. Pardon me before you get to the minority interests there. With regard to the banks or corporations that you have just enumerated, do the holdings of stock that you have given us represent practically all of the capital stock of those various banks and corporations with the exception of directors' qualifying shares?

Mr. BLAIR. In all cases except the City National Bank & Trust Co. of Battle Creek. There was quite a strong minority interest in that. We owned 56,264 shares, and there were 2,230 shares owned by outsiders and 1,500 shares owned by directors.

Senator COUZENS. You did not mention the Griswold Co. When was that acquired, the Griswold Bank?

Mr. BLAIR. The Griswold Bank was acquired in 1928 and had been merged prior to this time with the National Bank of Commerce.

Senator COUZENS. It had gone out of business, disposed of its charter?

Mr. BLAIR. Yes.

Mr. PECORA. Who conceived the idea of this holding company called originally the Union Commerce Investment Co.?

Mr. BLAIR. Do you mean, Mr. Pecora, who conceived the idea of consolidating the interests of the stockholders, or who conceived the idea of putting those interests in the form of a corporation?

Mr. PECORA. Yes; who conceived the idea of the creation or organization of a holding company to acquire through the stock ownership the banks and other corporations that it subsequently did acquire?

Mr. BLAIR. Still I am not just sure what you want, whether you want to distinguish as between a unification of stock and the holding company idea.

Mr. PECORA. I am confining myself for the time being to the holding company idea, represented by the incorporation of the Union Commerce Investment Co. in May 1928.

Mr. BLAIR. That was done by our counsel.

Mr. PECORA. Who conceived the idea of it? It was effectuated, as I understand, that is, the legal details were handled by counsel. Who conceived the idea of such a holding company?

Mr. BLAIR. Of merging the interests of the two institutions? Is that what your question is?

Mr. PECORA. No. As I understand it, shortly after the Union Commerce Investment Co. was created it acquired various banks and other corporations through the exchange of its stock for the capital stock of such banks and other corporations; isn't that so?

Mr. BLAIR. Yes.

Mr. PECORA. This Union Commerce Investment Co. was organized or designed eventually for that purpose, was it not?

Mr. BLAIR. Yes.

Mr. PECORA. Who conceived that idea?

Mr. BLAIR. A group of men who were directors of the trust company and the directors of the bank.

Mr. PECORA. Were you one of that group?

Mr. BLAIR. Yes, sir.

Mr. PECORA. Now, tell us what advantages in the minds, or what were the opinions of the members of that group, lay in the organization of this kind of a holding company?

Mr. BLAIR. I can tell you what was in my mind as a trust company man.

Mr. PECORA. All right, sir.

Mr. BLAIR. I will have to go back some time to show you how the idea grew.

Mr. PECORA. All right. No doubt that will be interesting.

Mr. BLAIR. In 1913 when the new Federal Reserve Act was passed a change was made in the National Bank Act permitting national banks to do a trust business providing they should get the permission of the Federal Reserve Board. Sometime after that a charter was granted to the First National Bank of Bay City to do a trust business. The Union Trust Co. attacked that in the courts and carried it to the United States Supreme Court. This authority was given under what we call section 11 (k). The United States Supreme Court upheld the right of a national bank to do a trust business even in a State like Michigan where State banks were prohibited from doing a trust business, and trust companies were prohibited from doing a general banking business.

We then attempted, with the State banks, to get our State laws so amended that we could meet on an equal competitive basis with national banks. Quite a campaign was carried on, and in 1925 State banks received certain limited trust powers, but the companion bill, beaten in the State Senate or vetoed by the Governor, I have forgotten which.

Well, the Union Trust Co. and other trust companies in the State of Michigan found themselves then in more difficulties than before so far as competition was concerned, because they had as competitors not only national banks, which could do a general banking business

and take care of the many needs of customers, but also the State banks. We went back to the legislature of 1927 and again asked that trust companies be authorized to do a banking business. That legislature gave State banks additional trust powers—well, they were given full trust powers at that time, and the companion bill was defeated.

We found ourselves then, as trust companies, in imminent danger of having a great deal of our business taken away from us, and—

Mr. PECORA (interposing). Now, in what year had that stage been reached?

Mr. BLAIR. In 1927.

Mr. PECORA. All right. You may proceed.

Mr. BLAIR. In the city of Detroit the National Bank of Commerce had received authority to do some trust business, but had not taken many trusts. I think it was acting as trustee in some cases. Along in June of 1927, that is, after the adjournment of the State legislature, it so happened that Mr. John Russel, who was a director both of the Union Trust Co. and of the National Bank of Commerce, Mr. Harry Sanger, who was vice president of the National Bank of Commerce, and myself, went to Europe together. I do not know how it came up, but during that trip we three decided that it would be greatly to the advantage of the stockholders of both the bank and the trust company if an affiliation could be brought about in such a way that the stockholders could receive the benefit of our being able to give to customers full financial service.

When we came back to the United States—

Mr. PECORA (interposing). By "full financial service" do you mean doing a general banking business and a trust company business as well?

Mr. BLAIR. As well as a savings business; yes, sir.

Mr. PECORA. All right.

Mr. BLAIR. When we came back Mr. Russel, particularly, became quite active in that direction, and approached Mr. Joy, who was president of the National Bank of Commerce, and other directors both of the bank and of the trust company. Eventually, in October, this arrangement, or this agreement [pointing to a paper] was signed by Mr. Joy and myself, and—

Mr. PECORA (interposing). That is, the agreement that brought about the affiliation between the Trust Co. and the National Bank of Commerce?

Mr. BLAIR. Yes, sir.

Mr. PECORA. Well, then, that was followed in the following spring, that is to say, in May of 1928, by the incorporation of the Union Commerce Investment Co.?

Mr. BLAIR. Yes, sir.

Mr. PECORA. Now, would you say that you, Mr. Sanger, and Mr. Russel originated, among the three of you on this European trip, the idea of a holding company signalizing the advent of group banking in Michigan?

Mr. BLAIR. No, because we did not have a holding company in mind at that time. We had in mind the unification of stock, the printing of certificates of stock of—

Mr. PECORA (interposing). Representing a proportionate interest in the affiliated companies or banks; is that right?

Mr. BLAIR. Yes, sir.

Mr. PECORA. That was the so-called "unified trust plan", or unified stock plan, was it?

Mr. BLAIR. Yes. And that had been in operation in Michigan for several years.

Mr. PECORA. Who were the trustees who held the unified stock, or wasn't it put in the names of trustees?

Mr. BLAIR. No.

Mr. PECORA. Well, was that plan actually consummated?

Mr. BLAIR. Do you mean for a unification?

Mr. PECORA. Yes.

Mr. BLAIR. No. As I tried—

Mr. PECORA (interposing). Well, tell us what took place, then.

Mr. BLAIR. As I tried to explain earlier, we put the matter up to our lawyers, and they saw obstacles in the way. I don't know what those obstacles were, but they proposed the organization of a corporation holding the shares, rather than to have unified stock certificates issued.

Mr. PECORA. Do you recall who those lawyers were?

Mr. BLAIR. Well, it was the members of those two firms whose names I gave earlier, Warren, Hill & Hamblin and Campbell, Bulkley & Ledyard.

The CHAIRMAN. Was there any voting trust connected with that plan?

Mr. BLAIR. No.

Mr. PECORA. Was that how this holding company was born?

Mr. BLAIR. That is the way.

Senator COUZENS. When you came to an exchange of shares for this holding-company stock, were there any stockholders in the original banks or trust companies who declined to exchange their stock for holding-company stock?

Mr. BLAIR. No; I think not. I think there was some delay, but I don't think—well, I am sure that there were none.

Senator COUZENS. Everybody was willing to exchange bank and trust company stock for holding-company stock?

Mr. BLAIR. Yes.

Mr. PECORA. Now, Mr. Blair, do you recall what the original capital structure was of the Union Commerce Investment Co.?

Mr. BLAIR. I do not.

Mr. PECORA. According to the photostatic copy I have of the certificate of incorporation of the Union Commerce Investment Co., the authorized capital stock is referred to in paragraph 4 of such articles, reading as follows:

4. The amount of total authorized capital stock of this corporation is 5 million dollars, divided into 50,000 shares of the par value of \$100 each.

Is that according to your recollection?

Mr. BLAIR. I think that is probably true, because the capital of each of the institutions entering the original company was $2\frac{1}{2}$ million dollars.

Mr. PECORA. And according to paragraph 5 of these articles of incorporation of the Union Commerce Investment Co., the provision was as follows:

The amount of capital with which this corporation will commence business business is \$242,400 and upwards.

Do you recall that?

Mr. BLAIR. I do not remember that part of it. I cannot imagine why that amount should be put in.

Mr. PECORA. Now, the incorporators, or rather the original subscribers, to the capital stock of the Union Commerce Investment Co., are named in paragraph 6 of the articles of incorporation, to be as follows, together with the number of shares subscribed by them respectively:

Frank W. Blair, 740 shares; Richard P. Joy, 718 shares; Charles B. Warren, 508 shares; Joel H. Prescott, 80 shares; Harry C. Bulkley, 90 shares; H. H. Sanger, 288 shares.

Mr. BLAIR. Yes; I imagine that is the amount of stock that each of us owned in our institutions, less qualifying shares.

Mr. PECORA. And this investment holding company was to have a perpetual existence under the terms of its charter, do you recall that?

Mr. BLAIR. I don't remember that.

Mr. PECORA. Well, that appears from paragraph 7 of the articles of incorporation, reading as follows:

7. This corporation is to have a perpetual existence.

Now, do you recall the following provision of the articles of incorporation of this Union Commerce Investment Co.:

8. Private property of the stockholders shall not be subject to the payment of corporate debts, except that the holder of each share of the stock of this corporation shall be individually and severally liable for such stockholders' ratable and proportionate part (determined on the basis of their respective holdings of the total issued and outstanding stock of this corporation) of any statutory liability which may be determined, imposed upon, or assessed against, this corporation.

(a) By reason of its ownership of any stock in any bank now or hereafter organized and existing under the National Bank Act of the United States of America, and any amendment thereto, and/or under any present or future law or laws of the United States of America governing and controlling the organization and regulation of capitalized national banks.

(b) By reason of its ownership of any stock in any trust company now or hereafter organized and existing under the Trust, Deposit, and Security Companies Act of the State of Michigan, and any amendment thereto, and/or under any present or future law or laws of the State of Michigan governing and controlling the organization and regulation of trust companies.

(c) By reason of its ownership of any stock in any bank now or hereafter organized and existing under the law of the State of Michigan authorizing the business of banking and to establish a banking department for the supervision of such business and any amendment thereto, and/or under any present or future law or laws of the State of Michigan governing and controlling the organization and regulation of banks.

Do you recall that provision?

Mr. BLAIR. Yes, sir.

Mr. PECORA. Was any reference to this provision made upon the certificates of stock of this investment or holding company?

Mr. BLAIR. I believe so; yes.

Mr. PECORA. Now, do you recall a company known as the new Union Building Co.?

Mr. BLAIR. Yes, sir.

Mr. PECORA. Did the Union Trust Co. have anything to do with this new Union Building Co.?

Mr. BLAIR. It originally owned its capital.

Mr. PECORA. Did it cause that new Union Building Co. to be incorporated?

Mr. BLAIR. Yes.

Mr. PECORA. Do you remember when it was incorporated?

Mr. BLAIR. I do not.

Mr. PECORA. I understand that it was on or about June 1, 1927.

Mr. BLAIR. That is probably so.

Mr. PECORA. And it was incorporated under the laws of the State of Michigan?

Mr. BLAIR. I think so.

Mr. PECORA. Now, Mr. Blair, what were the purposes for which the New Union Building Co. was formed at the instance or by the Union Trust Co in 1927?

Mr. BLAIR. The building occupied by the trust company prior to that time had become entirely inadequate for its needs, and it was renting another building to take care of some of its departments, making it very hard to do business. Some time, I should say, after that corporation—or I should say in 1925, or perhaps 2 years before—

Mr. PECORA (interposing). In 1927 that was.

Mr. BLAIR. I meant in 1927, and perhaps 2 years before that I asked the board of directors of the trust company to appoint a building committee, or a committee which should look into the matter of housing the trust company. That committee, of which Mr. Warren was chairman, made quite an extensive investigation, and finally recommended that the trust company acquire a part of the block of land immediately south of the old trust company building. That property was acquired with the thought in mind of constructing on it a new building.

Mr. PECORA. And such new building was eventually erected on that block?

Mr. BLAIR. Yes, sir.

Mr. PECORA. Was that building known as the Aztec Tower?

Mr. BLAIR. Not officially; no.

Mr. PECORA. Well, is it commonly known as the Aztec Tower?

Mr. BLAIR. I think it is commonly known as the Union Guardian Building. But I think there is a restaurant in the tower which called itself the Aztec Tower Restaurant. However, I do not think anybody around Detroit called the building the Aztec Tower Building.

Mr. PECORA. This New Union Building Co., in other words, was virtually organized for the purpose of enabling the Union Trust Co. to acquire real estate and to construct upon it a building for its home?

Mr. BLAIR. Yes.

Mr. PECORA. Now, what did that investment cost, I mean the investment in land and building?

Mr. BLAIR. Eventually, do you mean?

Mr. PECORA. Yes.

Mr. BLAIR. Including the equipment my remembrance is somewhere between 11 and 12 million dollars.

Mr. PECORA. How did it raise the money with which to acquire that plot of ground and erect the building thereon?

Mr. BLAIR. A first mortgage to the Metropolitan Trust Co. of \$5,000,000, second-mortgage bonds, which were offered to the stockholders of the trust company, of \$2,000,000, and—

Mr. PECORA (interposing). Were they taken by the stockholders?

Mr. BLAIR. Practically all of them were.

Mr. PECORA. All right.

Mr. BLAIR. And the capital, which was originally \$2,000,000 but afterwards increased to \$5,000,000, owned by the trust company itself.

Mr. PECORA. That increase of capital was necessary in order to meet the increased cost of the building, wasn't it?

Mr. BLAIR. Yes, and some changes were made after the building was started.

Senator COUZENS. For that \$5,000,000 of stock, was the money taken out of the trust company?

Mr. BLAIR. It was furnished by the stockholders of the trust company; yes.

Mr. PECORA. It was not taken out of the funds of the trust company, was it?

Mr. BLAIR. Oh, no. But the trust company stockholders increased their holdings—well, it was a part of this \$7,500,000—no, let me see, three times—yes, it was a part of the \$7,500,000 subscribed by stockholders in 1929.

Senator COUZENS. I understood you to say the building was owned by the trust company. It was really owned by the stockholders, then, wasn't it?

Mr. BLAIR. No; it was owned by the trust company as a corporation. That is, the trust company owned all of the stock of the building company.

Mr. PECORA. Of the New Union Building Co.?

Mr. BLAIR. Yes, sir.

Senator COUZENS. But the stock was subscribed for separately by each stockholder in order to augment the stock of the trust company?

Mr. BLAIR. Not just the way that sounds.

Mr. PECORA. It was through the issuance and sale of second mortgage bonds in part?

Mr. BLAIR. No.

The CHAIRMAN. It was stock in the trust company, and the proceeds of that stock went into this building.

Mr. BLAIR. The increased capital of the trust company was used partly to carry this stock of the building company.

Senator COUZENS. What portion of that which it did not carry was carried by others? In other words, did the trust company carry the stock in the amount of the excess of what you were able to raise?

Mr. BLAIR. We raised all of it.

Senator COUZENS. By additional sales of stock to your stockholders?

Mr. BLAIR. Yes.

Senator COUZENS. All of it?

Mr. BLAIR. Yes.

Mr. PECORA. But the stockholders of the trust company purchased the \$2,000,000 of second-mortgage bonds?

Mr. BLAIR. Yes.

Mr. PECORA. That were issued by the new Union Building Co.?

Mr. BLAIR. Yes.

Mr. PECORA. I see. Now, Mr. Blair, you have already referred to the fact, in passing, that on or about December 16, 1929, there was a merger or consolidation, whichever you are pleased to call it, of the Union Commerce Investment Co. and the Guardian Detroit Co. Inc.?

Mr. BLAIR. The Guardian Detroit group. The Guardian Detroit Co. was a separate corporation.

Mr. PECORA. The Guardian Detroit Group, Inc., was a holding company generally similar in scope and purposes and formation to the Union Commerce Investment Co., was it not?

Mr. BLAIR. Yes, except that it was a Michigan corporation, the Michigan law having been changed, as I understand, early in 1929.

Mr. PECORA. To make it feasible and practicable and legal under the laws of Michigan for the incorporation of a company such as the Union Commercial Investment Co.?

Mr. BLAIR. Yes.

Mr. PECORA. Now, the record here already shows that the Guardian Detroit Group, Inc., was incorporated in May of 1929 under the laws of the State of Michigan, and that the Union Commerce Investment Co. was incorporated in 1928 under the laws of Delaware. Now, who initiated the proceedings or negotiations that resulted in the consolidation in December of 1929 of these two holding companies under the name and title of the Guardian Detroit Union Group, Inc.?

Mr. BLAIR. Do you mean, who did the talking?

Mr. PECORA. Well, who initiated the proposition which resulted in the consolidation of the two companies?

Mr. BLAIR. As I remember it, the first suggestion which came to me was from Mr. Lord.

Mr. PECORA. Mr. Lord was then the president of the Guardian Detroit Group, Inc., was he not?

Mr. BLAIR. Yes.

Mr. PECORA. How long prior to the effecting of the consolidation on December 16, 1929, was the proposition for such consolidation first submitted, proposed, or advanced?

Mr. BLAIR. Well, my memory may be a little bit faulty on that, but as I remember we had some talks about it in the early summer, but those talks came to nothing. Then along about midsummer the subject came up again, and we didn't get anywhere; but finally, along some time in the middle or latter part of September, we came to an agreement. I remember quite well that the agreement was reached at a meeting held at my house out in the country.

Senator COUZENS. Were you the chief negotiator for your group, and was Mr. Lord the chief negotiator for his group?

Mr. BLAIR. Yes.

Mr. PECORA. Well, the proposition must have originated, then, very, very, shortly after the birth of the Guardian Detroit Group, Inc., which took place in May of 1929.

Mr. BLAIR. As we look back it would seem that it did, but the way things were going then I suppose we thought it was a long time afterward.

Mr. PECORA. On what terms was the consolidation effected?

Mr. BLAIR. On a share-for-share basis after the Guardian Detroit Group stockholders received a 20 percent dividend.

Mr. PECORA. Now, before this consolidation was effected had there been any competition between those two groups or holding companies, known respectively as the Guardian Detroit Group, Inc., and the Union Commerce Investment Co., in the matter of acquiring, through purchase of capital stock, bank units in the State of Michigan?

Mr. BLAIR. Only in one case.

Mr. PECORA. In which case was that?

Mr. BLAIR. At Flint.

Mr. PECORA. In the case of the Flint bank?

Mr. BLAIR. Yes; and I don't know that that was serious competition at all.

Mr. PECORA. What were the advantages that were claimed for the consolidation of those two holding companies?

Mr. BLAIR. Well, I think we felt that there could be quite a saving through the merging of the two trust companies in Detroit and the two commercial banks, and also of the two investment houses.

Mr. PECORA. What were those two investment houses?

Mr. BLAIR. The Guardian Detroit Co. and Keane, Higbie & Co.

Mr. PECORA. Keane, Higbie & Co. had been acquired by your original holding company?

Mr. BLAIR. Yes, sir.

Mr. PECORA. Namely, the Union Commerce Investment Co.?

Mr. BLAIR. Yes.

Mr. PECORA. When was that done?

Mr. BLAIR. About the 1st of September.

Mr. PECORA. Of 1929?

Mr. BLAIR. Of 1929; yes.

Mr. PECORA. Now, what was the business of Keane, Higbie & Co. at that time?

Mr. BLAIR. Keane, Higbie & Co. have been referred to in these hearings two or three times as a brokerage house. That is not a proper designation of that firm. It had some brokerage business, but by far the larger part of its business was investment banking.

Senator COUZENS. The buying and selling of securities?

Mr. BLAIR. The buying and selling of securities, yes.

Senator COUZENS. They held considerable securities in their portfolio, didn't they?

Mr. BLAIR. Yes. But most investment houses did, of course.

Mr. PECORA. Now, Mr. Blair, you took an active part, didn't you, in the negotiations that led to the acquisition of Keane, Higbie & Co., Inc., by the Union Commerce Corporation?

Mr. BLAIR. I did.

Mr. PECORA. What advantages did you see in your corporation acquiring Keane, Higbie & Co. at that time?

Mr. BLAIR. May I read a statement I have prepared? I rather expected I would be asked that very question; and then I will be very glad to answer any questions.

Mr. PECORA. Well, have you a copy of that statement?

Mr. BLAIR. I will give this to you.

Mr. PECORA. I mean, if you could let me have a copy so that I might follow you through.

Mr. BLAIR. I am not sure that I have a copy. I will look. [After looking through his papers]. I do not seem to have another copy, Mr. Pecora.

Mr. PECORA. I will be with you in just a moment.

Senator COUZENS. When was the Guardian Trust Co. organized, Mr. Blair?

Mr. BLAIR. I think in the year 1925.

Senator COUZENS. That belonged to your group at the time of the consolidation now under discussion, the Guardian Trust Co.?

Mr. BLAIR. No; it belonged to the Guardian Detroit Group, not to our group.

Senator COUZENS. Oh, the Union belonged to your group?

Mr. BLAIR. Yes.

Senator COUZENS. Who organized the Guardian Trust Co.? That was organized after I left, and I do not recall it.

Mr. BLAIR. Well, I would not dare to say who did that. I remember that Fred Murphy and Harry Bodman were among the men associated with it in early days, but I would not attempt to say who were responsible for its formation.

The CHAIRMAN. Did this combination have the effect of reducing overhead and saving expense?

Mr. BLAIR. Yes.

Senator COUZENS. Why did you resign as the head of the Union Trust Co.?

Mr. BLAIR. Well, in the fall of 1931 I found my own financial position, because of endorsements I had made, to be such as to give me a good deal of worry, and I did not think that it was proper for me to continue.

Senator COUZENS. And your resignation from the—

Mr. BLAIR. I did not resign, Senator; I was retired.

Senator COUZENS. Voluntarily?

Mr. BLAIR. Yes; I asked to be retired.

Senator COUZENS. That was the time that Mr. Bodman succeeded you?

Mr. BLAIR. Yes.

Mr. PECORA. Will you let me look at the statement that you had prepared in order to enable you to answer questions concerning the acquisition of Keané, Higbie & Co., by the Union Commerce Co.?

Mr. BLAIR. Certainly [handing a paper to Mr. Pecora].

Mr. PECORA. You say you have not a copy of this statement?

Mr. BLAIR. I thought I had, Mr. Pecora, but I have not here.

Mr. PECORA. May I ask you who prepared it?

Mr. BLAIR. I did.

Mr. PECORA. Without any assistance from anyone else?

Mr. BLAIR. Without any assistance.

Senator COUZENS. When did you prepare it?

Mr. BLAIR. Oh, I suppose—

Senator COUZENS. At the beginning of these hearings?

Mr. BLAIR. It was after two gentlemen representing Mr. Pecora called on me at my office in Detroit.

Mr. PECORA. Prior to the commencement of these hearings and after you had learned that this committee was going to inquire into the Detroit banking situation?

Mr. BLAIR. Yes, sir; and these gentlemen asked me about Keane, Higbie & Co., and I said that deal was carried on entirely between Mr. Higbie and myself as far as the preliminary negotiations were concerned; and then I thought it well to bring my thoughts together on it and try to get them marshaled.

Mr. PECORA. Unless you have any reason to object to it, I would like to read this statement of yours into the record.

Mr. BLAIR. I have no objection whatever.

Mr. PECORA. And I will assure you that I will read every word of it just as it appears.

Mr. BLAIR. I have no objection.

Mr. PECORA. The only reason I propose doing that is that I will be able to have it before me in black and white as I read it, and can make notations for subsequent questions.

Mr. BLAIR. That is alright.

Mr. PECORA. The statement presented by the witness reads as follows [reading]:

Because a more thorough understanding may be had of each deal, by treating the two together, I propose, with your permission to so treat, the Goldman, Sachs and Keane, Higbie transactions.

I want to explain at the outset that I have no records or correspondence relative to either deal except some rough memorandums and must rely largely on memory. In general, the facts, as I remember them, are that some time during the midsummer of 1929, probably in July, word came to me through Mr. Covington, one of the vice presidents of the National Bank of Commerce, that he had been approached by a gentleman representing a large New York banking house with the suggestion that that house, or some allied interest, would be interested in making a purchase of a good-sized block of Union Commerce Corporation stock. It was represented that the house referred to was in position to influence a considerable volume of deposits in our direction if it should acquire a stock interest in the Union Commerce Corporation, and the names of a number of large corporations were mentioned. Through Mr. Covington, an interview was arranged and the suggestion was discussed more in detail between Mr. Covington, the other gentleman (who proved to be Clarence M. Bitting), and myself. At this interview it developed that the New York firm to which Mr. Covington referred was Goldman, Sachs and Co. At the conclusion of this interview, a meeting in the office of Goldman, Sachs in New York was arranged for. Some days later such a meeting was held at which there were present Messrs. Catchings and Wineberg representing Goldman, Sachs & Co., and Messrs. Sanger, Covington and myself representing the Union Commerce Corporation. This conference lasted throughout most of 1 day and at its conclusion we who represented the Union Commerce Corporation received a definite offer from the Goldman, Sachs Trading Corporation of \$120 per share for 30,000 shares of Union Commerce stock. The bid price of the stock, which was inactive on the Detroit Stock Exchange, was on that day, as I remember it, about \$110 per share.

Mr. Sanger and I were staying at the Biltmore Hotel and while eating breakfast there the next morning with Harry Finkenstaedt, a vice president of the bank, saw Carl M. Higbie, president of Keane, Higbie & Co., and a director of the Union Commerce Corporation and of the National Bank of Commerce, come into the dining room. We called him and he sat with us. During breakfast we told him of the Goldman, Sachs offer and asked him to think it over and give us some advice regarding it when he returned to Detroit. I gained the impression he thought well of the connection and the offer.

Just as we left the table Mr. Higbie said to me in a jocular way:

"Why don't you buy Keane, Higbie & Co.?" To which I replied:

"Give us a chance. Come and see me" —

Mr. Sanger, Mr. Covington, and I returned to Detroit and discussed the Goldman, Sachs offer with several associates and then submitted it to the board of directors of the Union Commerce Corporation, by whom it was approved, subject, of course, to stockholders waiving their rights to subscribe to the increased capital which would have to be provided for. Following this, the market for Union Commerce stock, which had been rather dormant, became quite active and the stock was bid up to something more than \$120 per share.

Meantime, Mr. Higbie returned to Detroit and came to see me. After some verbal sparring he came out with the suggestion that Keane, Higbie & Co. might be a valuable addition to the Union Commerce Corporation as an affiliate which would be able to contribute trusteeships from the companies they financed, bank accounts from industries with which they were in close relationship, and lastly as one which would contribute very substantial earning power under conditions as they then prevailed. As I remember, we had two interviews before I told Mr. Higbie that if he wished to submit a proposal I would take it up with our people and that I was sure it would be considered on its merits.

We then went into the matter of book values and earnings. As I remember, the book value of Union Commercial stock was about \$52 and that of Keane, Higbie & Co. about \$64 or \$65 per share. During the first 6 months of the year 1929 the Union Commerce Corporation had earned about \$2.50 and Keane, Higbie & Co. about \$17 per share. There was a good deal of discussion, and finally Mr. Higbie proposed a trade on the basis of share for share, i.e., 100,000 shares of Union Commerce stock to be given to the shareholders of Keane, Higbie & Co. for all of the stock of that company, no cash to be involved in the transaction.

I told Mr. Higbie I would recommend the deal if the stockholders of Keane, Higbie & Co. would sell, out of the Union Commerce Corporation stock going to them, 30,000 shares to the Goldman, Sachs Trading Corporation to fulfill the terms of our tentative contract. He agreed to this and subsequently, after interviewing many of the members individually and getting universally favorable reactions, I submitted the matter to the board of directors of the Union Commerce Corporation, which in turn submitted it to the stockholders. The latter approved the transaction by waiving their rights to subscribe to the increase of capital necessary to put it through.

During the time which elapsed between the origination of negotiations and the public announcement of their completion, the news leaked out and the public's reception of it was indicated by the avidity with which it pushed the market price of Union Commerce Corporation stock up day after day until at the time the transaction was completed, the bid price of stock was \$240 or \$250 a share.

During the conversations which were had prior to the arrangement whereby the Union Commerce Corporation and the Guardian Group were consolidated it developed that inasmuch as the Guardian Detroit Co. had a large investment banking business which extended throughout the United States and had developed certain affiliations with a number of strong New York investment banking houses, its officers felt that a definite affiliation with a single New York house, Goldman, Sachs Co. would be distinctly disadvantageous to the Guardian Detroit Co. They felt that the ownership of such a large block of stock by Goldman, Sachs would be looked upon as giving the latter a preferred position as against other New York houses even though it did not in fact do so.

In the merger, therefore, it was made a condition that the effort should be made to reacquire the stock owned by the Goldman, Sachs Trading Corporation for distribution to Detroit and Michigan people.

Mr. Higbie consented to negotiate with the Goldman, Sachs people, and I believe made a trip to New York for that purpose. What took place at the interview I do not know except as reported by Mr. Higbie.

Inasmuch as he is to give testimony at this hearing, I would rather he would speak for himself.

Some days after Mr. Higbie told me of his trip to New York I was called on the long-distance phone from New York by Mr. Covington, who said he had had an interview with Mr. Wineberg. I told Covington I would rather he should talk with Mr. Higbie and called the latter to my office. We then called Covington, who told us he had induced Wineberg to agree to sell

25,000 shares of the stock at \$184 per share but that Wineberg wanted to keep the other 5,000 for investment.

I have no accurate remembrance of the manner in which the repurchase was accomplished but I am sure the records of Keane, Higbie & Co. and for the Guardian Detroit Co. will show.

That is the end of the statement; and I will offer it in evidence.

The CHAIRMAN. Let it be admitted.

(The statement referred to, prepared by the witness, and read into the record by Mr. Pecora as appears above, was received in evidence as "Committee Exhibit No. 80, January 16, 1934.")

Mr. PECORA. When did the acquisition of Keane, Higbie & Co. by the Union Commerce Corporation take place?

Mr. BLAIR. I have sort of a rough memorandum here which indicates that it was put up to the board of directors of the Union Commerce Corporation on the 3d of September; I am not sure.

Mr. PECORA. Of 1929?

Mr. BLAIR. Yes.

Mr. PECORA. And it was approved by the board?

Mr. BLAIR. Yes.

Mr. PECORA. And the acquisition took place later that month, or some time later?

Mr. BLAIR. Some time later.

Mr. PECORA. In order to effect that acquisition it was found necessary to increase the outstanding capital stock of the Union Commerce Corporation, was it not?

Mr. BLAIR. Yes, sir.

Mr. PECORA. And such an increase was effected to the extent of and by the issuance of 121,500 new shares?

Mr. BLAIR. I do not remember the amount. One hundred thousand, of course, was the amount which was received by Keane, Higbie & Co.

Mr. PECORA. One hundred thousand of those new shares were issued to the stockholders of Keane, Higbie & Co. for all of the capital stock of Keane, Higbie & Co., which also amounted to 100,000 shares?

Mr. BLAIR. Yes.

Mr. PECORA. The par value of the Union Commerce Corporation stock was—

Mr. BLAIR. At that time it was \$20; and Keane & Higbie was \$10.

Mr. PECORA. And the par value of the Keane, Higbie & Co. stock was \$10?

Mr. BLAIR. Yes, sir.

Mr. PECORA. Can you recall any other facts or circumstances involving the acquisition of Keane, Higbie & Co. by Union Commerce Corporation than those set forth in your prepared statement which has been received in evidence as "Committee's Exhibit No. 80"?

Mr. BLAIR. I cannot, except that I have here, as I said, a rough memorandum, which apparently was made at the time, of the profits of Keane, Higbie & Co. for the first 6 months of 1929.

Mr. PECORA. I show you what purports to be a photostatic copy of a letter bearing your signature as president of the Union Commerce Corporation, addressed to the stockholders of the Union Commerce Corporation, dated Detroit, Mich., August 21, 1929. Will you look at it and tell me if you recognize it to be a true and correct copy

of such a letter which you as president of the Union Commerce Corporation at that time caused to be addressed to the stockholders of that corporation?

Mr. BLAIR. I do not remember it, but I have no doubt of it.

Mr. PECORA. You recognize the signature of Frank W. Blair as being your signature?

Mr. BLAIR. Yes.

Mr. PECORA. I offer it in evidence.

The CHAIRMAN. Let it be admitted and entered on the record.

(Photostatic copy of letter dated Aug. 21, 1929, from Frank W. Blair to the stockholders of the Union Commerce Corporation was received in evidence, marked "Committee's Exhibit No. 81, January 16, 1934.")

Mr. PECORA. The letter written on the letterhead of the Union Commerce Corporation, received in evidence as "Committee's Exhibit No. 81", reads as follows [reading]:

To accomplish the above and also to make provision for taking over other institutions from time to time, if such course may seem desirable, the authorized capital stock of the company should be substantially increased.

Your company has also made tentative arrangements to take over the following banks on bases of exchange which are believed to be advantageous for us in each case, namely, the Union Joint Stock Land Bank of Detroit, Union State Bank of Dearborn, Bank of Commerce of Dearborn, Trenton State Bank of Trenton and Jefferson Savings Bank of Grosse Pointe Park. To make these transactions possible and others of a similar character, it is necessary that your Board of Directors should have authority to make exchanges from our unissued capital for the stock of the institution to be acquired without first securing waivers from our stockholders. We are accordingly asking the stockholders to confer upon the Board of Directors authority for so issuing stock in the case of the acquisition of banks and trust companies, but in the case of other corporations only with the approval of a majority of the stockholders.

A notice of the special meeting of the stockholders to be held September 10th for the purpose of taking the necessary corporate action is herewith enclosed in proper legal form. We also enclose a form of proxy and waiver, which latter, if it meets with your approval, should be promptly executed and returned in the enclosed stamped envelope. Your prompt attention will be personally appreciated by the undersigned.

FRANK W. BLAIR, *President.*

COMMITTEE EXHIBIT No. 81

UNION COMMERCE CORPORATION,
Detroit, Mich., August 21, 1929.

To the Stockholders of the Union Commerce Corporation:

With no small pleasure and gratification, we beg to lay before you certain plans, which we believe will add greatly to the growth and prosperity of your company.

A financial group such as ours to be thoroughly rounded out must be equipped to handle stock issues and underwritings. To this end we have made arrangements for the affiliation with our company of Keane, Higbee & Company, one of the foremost financial houses in this section of the country, by the exchange of stock of that company for stock of the Union Commerce Corporation on a share for share basis. Both from the standpoint of book value and earning power, this exchange is presently advantageous to the Union Commerce Corporation and its potential advantages for the future are very apparent. The immediate response of our stock in the market to the rumors and final announcement of this prospective affiliation are sufficient indication as to how it is regarded in financial circles.

In order to have stock available to make this exchange, it is desired that the stockholders of the Union Commerce Corporation waive their subscription rights thereto. The officers of the constituent companies have agreed to do so as have also the directors insofar as the latter have been seen. There is no doubt in my mind that they will all waive.

Mr. PECORA. I show you what purports to be a photostatic copy of a letter referred to in committee's Exhibit No. 81 as the accompanying or enclosed letter. Will you look at it and tell me if you recognize it to be a true and correct copy of such an enclosure which accompanied the letter marked in evidence as "Committee's Exhibit No. 81?"

Mr. BLAIR. I do not remember it, but I think it is correct; I have no doubt about it whatever.

Mr. PECORA. I offer it in evidence.

The CHAIRMAN. Let it be admitted and entered in the record.

(Photostatic copy of letter dated August 21, 1929, on letterhead of Union Commerce Corporation, signed by John N. Stalker, Secretary, and addressed to the stockholders of the Union Commerce Corporation, was received in evidence, marked "Committee Exhibit No. 82, January 16, 1934.")

Mr. PECORA. The letter received in evidence as "Committee's Exhibit No. 82" is written on the letterhead of the Union Commerce Corporation, and reads as follows—it seems to be a printed copy [reading]:

COMMITTEE EXHIBIT NO. 82

UNION COMMERCE CORPORATION

DETROIT, MICH., August 21, 1929.

To the stockholders of the Union Commerce Corporation:

By order of the Board of Directors of this corporation, a special meeting of the stockholders of the Union Commerce Corporation will be held in the Directors' Room of the Union Trust Company, on the Sixth Floor of the Union Trust Building, Detroit, Michigan, on the 10th day of September, 1929, at one o'clock p.m., Eastern Standard Time, on said day.

This meeting is called for the following purposes:

(1) To consider and act upon recommendation of the Board of Directors of this corporation to amend the corporation's Certificate of Incorporation by striking out all of Article Fourth thereof and inserting in lieu thereof a new Article Fourth to be and to read as follows:

"Fourth: The amount of the total authorized Capital Stock of this corporation is Twenty-Five Million Dollars (\$25,000,000.00), divided into One Million Two Hundred Fifty Thousand (1,250,000) shares of the par value of Twenty Dollars (\$20.00) each.

"No stockholder of this corporation shall have any preemptive or preferential right of subscription to any share of any stock of this corporation or to any obligations convertible into stock of this corporation, except as herein provided, and this corporation reserves, and shall have the right from time to time, upon the affirmative vote of a majority of all of its directors, to issue and dispose of all or any of its unissued or increased stock for the purpose of acquiring stock of banks or trust companies without offering to the stockholders of this corporation for subscription any stock so to be issued and disposed of. This corporation further reserves and shall have the right, from time to time, if recommended by the affirmative vote of a majority of all of its Directors, upon the affirmative vote of a majority in amount of its stockholders, to issue and dispose of all or any part of its unissued or increased stock for the purpose of acquiring the capital stock of corporations other than banks or trust companies without offering to the stockholders of this corporation for subscription any of the stock so to be issued and disposed of." and to call in all outstanding certificates of stock for cancellation and to issue and deliver to the holders thereof new certificates of stock containing statement of the revised capitalization of the corporation and other endorsements defining the stockholders' rights.

(2) To present to the stockholders of this corporation for ratification and approval, the matter of the acquisition, by this corporation, of the capital stock of Keane, Higbie & Company of Detroit, Michigan, from its stockholders.

or at least seventy-five percent (75%) of said capital stock, by the exchange of one share of the capital stock of this corporation, having a par value of Twenty Dollars (\$20.00) for one share of the capital stock of Keane, Higbie & Company, having a par value of Ten Dollars (\$10.00) and to secure the waiver by the stockholders of this corporation of the special right to subscribe for the stock of this corporation required in effecting such exchange.

If you are unable to be present in person, will you please promptly sign and return the enclosed proxy and waiver.

Yours respectfully,

JOHN N. STALKER, *Secretary.*

Now, on September 10, 1929, the stockholders, at the meeting called for and referred to in this letter, approved the acquisition of the Keane, Higbie & Co. stock on a share-for-share exchange basis?

Mr. BLAIR. I believe they did.

Mr. PECORA. And that exchange was thereupon effected?

Mr. BLAIR. Yes.

Mr. PECORA. Who were the stockholders of Keane, Higbie & Co. at that time?

Mr. BLAIR. I do not think I can say.

Mr. PECORA. Do you recall the names of any of the largest individual stockholders of Keane, Higbie & Co. at that time?

Mr. BLAIR. Mr. Higbie was by far the largest stockholder; I am sure of that.

Mr. PECORA. Do you recall the extent of his holdings of Keane, Higbie & Co. stock at that time?

Mr. BLAIR. No, but I am quite sure it was much more than half.

Mr. PECORA. He was a large majority stockholder?

Mr. BLAIR. Yes, sir.

Mr. PECORA. Mr. Higbie was also one of the officers of Keane, Higbie & Co at that time, was he not, or a director?

Mr. BLAIR. He was either president or chairman; I have forgotten which.

Mr. PECORA. The first time it was proposed to you as the executive head of the Union Commerce Corporation that that corporation acquire Keane, Higbie & Co. was when you were having breakfast at the Hotel Biltmore in New York City, some time in the summer of 1929?

Mr. BLAIR. Yes.

Mr. PECORA. You had gone to New York on that occasion to confer with representatives of Goldman-Sachs & Co.?

Mr. BLAIR. Yes.

Mr. PECORA. Goldman-Sachs & Co. had indicated to you previously its desire to acquire something like 30,000 shares of the capital stock of the Union Commerce Corporation?

Mr. BLAIR. Yes.

Mr. PECORA. Did the Union Commerce Corporation at that time have authority to issue those 30,000 shares?

Mr. BLAIR. It did not.

Mr. PECORA. Did you tell that to the representatives of Goldman-Sachs & Co.?

Mr. BLAIR. Certainly.

Mr. PECORA. What specific offer did Goldman-Sachs & Co. make to you for those 30,000 shares?

Mr. BLAIR. \$120 a share.

Mr. PECORA. And that was made some time in July 1929, if I correctly understand your prepared statement which is marked "Committee's Exhibit No. 80"?

Mr. BLAIR. I do not remember exactly, but I should think it was some time in July. I could not say definitely. I remember the occasion but not the date.

Mr. PECORA. That offer was originally suggested to you by Mr. Covington, one of the vice presidents of the National Bank of Commerce at that time?

Mr. BLAIR. He did not suggest the offer; he suggested that a man whom he knew was in touch with or a representative of a New York banking house. He gave me no information as to the name of the house or the individual he referred to.

Mr. PECORA. Well, it subsequently developed that the New York banking house he referred to was Goldman-Sachs & Co.?

Mr. BLAIR. Yes, sir.

Mr. PECORA. Did the individual that he referred to meet you in connection with this offer?

Mr. BLAIR. Oh, yes; we met in his office.

Mr. PECORA. Who was it?

Mr. BLAIR. Mr. Clarence M. Bitting.

Senator COUZENS. Was he with the Fisher Co. at that time?

Mr. BLAIR. Yes, sir.

Mr. PECORA. What was the total amount of capital stock which the Union Commerce Corporation had issued and outstanding at that time when you received this offer for 30,000 shares at \$120 a share?

Mr. BLAIR. Of course it was something more than half a million shares, because the original amount as stated here was 500,000 shares.

Mr. PECORA. I think it was just about 478,866 shares, was it not—the total number of shares outstanding?

Mr. BLAIR. I rather think it was more than that, because we had taken in the Griswold First State Bank prior to that, and something like 20,000 shares had been issued at that time.

Mr. PECORA. Was Mr. Carl Higbie a director at that time of the Union Commerce Corporation?

Mr. BLAIR. Yes.

Mr. PECORA. And a large stockholder?

Mr. BLAIR. No.

Mr. PECORA. You say in your prepared statement which is marked "Committee's Exhibit No. 80," referring to your original conversation with Mr. Higbie in which he first suggested that the Union Commerce Corporation acquire Keane, Higbie & Co., that "Mr. Sanger and I were staying at the Biltmore Hotel, and while eating breakfast there the next morning" and Mr. Higbie came into the dining room; that "we called him and he sat with us. During breakfast we told him of the Goldman-Sachs offer and asked him to think it over and give us some advice regarding it when he returned to Detroit. I gained the impression he thought well of the connection and the offer."

You gained that impression, I presume, from the conversation you had at breakfast that morning with Mr. Higbie?

Mr. BLAIR. Yes.

Mr. PECORA. Did he indicate that the first he knew of this offer of Goldman-Sachs & Co. was when you told him that morning?

Mr. BLAIR. I do not think he could have known anything about it before that, because we did not receive the offer until late in the afternoon of the day before.

Mr. PECORA. Well, after you and Mr. Sanger returned to Detroit from New York following this conference you had with representatives of Goldman-Sachs & Co., did you meet Mr. Higbie in Detroit?

Mr. BLAIR. He came to see me sometime after; I don't know how long after.

Mr. PECORA. Did he then express to you his opinion of the offer that you had received from Goldman-Sachs & Co. for these 30,000 shares of Union Commerce Corporation stock?

Mr. BLAIR. I do not remember. I know that he never opposed it—

Mr. PECORA. You say in your prepared statement from that point on as follows:

"Just as we left the table"—meaning the breakfast table—"Mr. Higbie said to me in a jocular way, 'Why don't you buy Keane, Higbie & Co.?' To which I replied, 'Give us a chance. Come and see me.'"

Was that the first time anyone had ever proposed to you that the Union Commerce Corporation acquire all the capital stock of Keane, Higbie & Co.?

Mr. BLAIR. As far as I remember; yes.

Mr. PECORA. You said in your prepared statement that Higbie asked you in a jocular way, "Why don't you buy Keane, Higbie & Co.?"

Mr. BLAIR. That is the way Mr. Higbie would approach any business proposition.

Mr. PECORA. Did you answer him, equally in a jocular way, "Give us a chance. Come and see me"?

Mr. BLAIR. I think probably I did. We were both smiling, but both probably thinking a lot of things.

Mr. PECORA. Did you attach any seriousness to his jocular way of asking you why you did not buy Keane, Higbie & Co.?

Mr. BLAIR. I think I did. I expected he would come and see me, and he did come.

Mr. PECORA. He came?

Mr. BLAIR. Yes.

Mr. PECORA. Shortly after you returned to Detroit?

Mr. BLAIR. I don't remember just how long after; I should say 2 or 3 weeks.

Mr. PECORA. Then did you and he discuss in full detail the matter or plan of Union Commerce Corporation acquiring all of the capital stock of Keane, Higbie & Co.?

Mr. BLAIR. Before we got through with our negotiations we did; yes.

Mr. PECORA. Will you give this committee as briefly as you can the substance of the negotiations and conversation that took place between you as the representative of the Union Commerce Corporation and Mr. Higbie as the representative of Keane, Higbie & Co. which led ultimately to the acquisition of the capital stock of Keane, Higbie & Co. by the Union Commerce Co.?

Mr. BLAIR. I do not believe I can remember the details of the conversation.

Mr. PECORA. You conducted those negotiations actively in behalf of the Union Commerce Corporation, did you not?

Mr. BLAIR. I did. I remember this, that during these negotiations Mr. Higbie submitted a balance sheet and an inventory of the company's holdings. I remember we took the latest quotations of the securities and fixed from that a book value on Keane, Higbie & Co.'s stock. My remembrance is that that book value was something like 63 or 64 or 65 dollars. I remember that Mr. Higbie submitted a statement of the earnings for the first 6 months. I think that statement was made by Ernst & Ernst; he had some Ernst & Ernst statement with him at that time. Whether it was for the prior year or for that 6 months I do not remember. I do remember that I said to him, "Where did you make these earnings? Where did you get all of them?" And he went down through some papers he had; and I find this slip (indicating) with my papers, which I probably made at the time, indicating approximately where the earnings for the prior 6 months had come. Following all that we came down to the question of price and method of payment, and Mr. Higbie's suggestion was, as I stated. Whether that was his first suggestion or final one I cannot remember at this time. I rather think it was the first suggestion he made.

Mr. PECORA. What was it?

Mr. BLAIR. That we had reached a point where our minds met closely enough so that he proposed that we make an exchange on a share-for-share basis. Then I had been somewhat concerned about the Goldman-Sachs matter as to whether or not our stockholders would agree to waive; and I made it a part of the proposition that if our stockholders agreed to this, the stockholders of Keane, Higbie & Co. would assume that—I will not call it a contract; it was not a contract, but that arrangement which the directors had approved of with Goldman-Sachs & Co.

Mr. PECORA. The stock of Keane, Higbie & Co. outstanding at that time was very closely held, was it not?

Mr. BLAIR. I rather think so; yes. I never knew exactly, Mr. Pecora, how it was held. I never concerned myself with that particularly.

Mr. PECORA. Do you know how many stockholders there were at the time, of Keane, Higbie & Co.?

Mr. BLAIR. I had an impression in some way that there were not more than a dozen, but I do not know that. I do not think I ever knew accurately. I was not concerned so much with individuals as I was with the proposition itself.

The CHAIRMAN. The committee will now take a recess until 2 o'clock.

(Whereupon, at 1 p.m., a recess was taken until 2 p.m. of the same day, Tuesday, Jan. 16, 1934.)

AFTERNOON SESSION

The subcommittee reconvened at the expiration of the recess at 2 p.m., Tuesday, January 16, 1934.

TESTIMONY OF FRANK W. BLAIR—Resumed

Mr. PECORA. When did you bring to the notice of the board of directors of the Union Commerce Corporation the proposition that that corporation acquire the capital stock of Keane, Higbie & Co. on a share-for-share basis?

Mr. BLAIR. I cannot give the date, Mr. Pecora. After the conversations with Mr. Higbie I talked with several of the directors. I do not ever remember the ones I talked with now, but we arranged for a meeting of the board very soon after that. I think it would be a very few days.

Mr. PECORA. I think it was on August 20, 1929.

Mr. BLAIR. Possibly that is so.

Mr. PECORA. Was the Keane, Higbie & Co. stock actively traded in at that time?

Mr. BLAIR. Oh, no; I do not think so. I think it was very closely held, and I do not think it was on the market at all.

Mr. PECORA. How did you determine, for the purpose of submitting a proposal for the acquisition of the stock to your board, the value of the Keane, Higbie & Co. capital stock?

Mr. BLAIR. We took the statement of Keane, Higbie & Co. and the inventory of Keane, Higbie & Co., applied the prices prevailing, as near as we could determine at the date we made the computation, and in that way arrived at what we thought was the book value of the company, and, as I remember, it was somewhere around \$63 or \$64 or \$65 a share.

Mr. PECORA. Did its book value at that time, computed by that method, approximate the book value of the Union Commerce Corporation stock?

Mr. BLAIR. It was, as I remember, \$10 or \$12 a share more than the Union Commerce.

Mr. PECORA. What did Mr. Higbie indicate to you, at the outset of the negotiations, would be the advantages accruing to the stockholders of Keane, Higbie & Co. from this contemplated sale, did he say?

Mr. BLAIR. No. I doubt if he would tell me what advantage he thought they might receive. I think he would tell me what advantage he thought our stockholders might receive.

Mr. PECORA. What advantage did he say your stockholders would receive?

Mr. BLAIR. Well, he said that Keane, Higbie & Co. could bring to us, that is, to the trust company, trusteeships in corporations in which Keane, Higbie & Co. had a part in refinancing. He could bring to the bank bank accounts from these corporations; and that they could provide considerable earnings to the stockholders.

Mr. PECORA. Did he say by what methods those earnings would be obtained—what kind of business?

Mr. BLAIR. Oh, yes; through the investment banking business.

Mr. PECORA. Were those results achieved after the acquisition of Keane, Higbie & Co. by your Union Commerce Corporation?

Mr. BLAIR. For perhaps 2 or 3 months, and then the cataclysm came that made it impossible for any investment house to make any money.

Mr. PECORA. Did you cause any independent audit to be made of the books of Keane, Higbie & Co. before you agreed upon the exchange basis?

Mr. BLAIR. Yes; not an audit. An audit of the company by Ernst & Ernst was submitted by Mr. Higbie. Whether that audit was for the 6 months' period ending June 30, 1929, or for the year ending December 31, 1928, I cannot say. However, Mr. Stalker was selected by me to go over the affairs of Keane, Higbie & Co. and satisfy himself that the assets were there, and he did that.

Mr. PECORA. Were the stockholders of the Union Commerce Corporation ever told at any time before the stockholders approved the plan of consolidation, that Mr. Higbie was the majority stockholder of Keane, Higbie & Co.?

Mr. BLAIR. I think the press carried the story, but I am not sure.

Mr. PECORA. Before the stockholders' meeting or after?

Mr. BLAIR. I think if the press missed anything of that story, I am disappointed in Detroit newspapermen, because they were around us like flies for 2 or 3 days after the announcement came out.

Mr. PECORA. In any communication that you, as president, caused to be sent to the stockholders of the Union Commerce Corporation, in which reference was made to this contemplated acquisition of Keane, Higbie's capital stock by that corporation, did you mention the fact that Mr. Higbie individually owned the large majority of the outstanding capital stock of Keane, Higbie & Co.?

Mr. BLAIR. I do not think I would do that. I do not think I would think it was necessary to do that.

Mr. PECORA. Mr. Higbie was a director of the Union Commerce Corporation at that time, was he not?

Mr. BLAIR. Yes, sir.

Mr. PECORA. Did you not think it would be well to tell your stockholders, in asking them to approve a certain transaction, that the principal beneficiary of that transaction on the other side was a man who was a director of the Union Commerce Corporation at the time?

Mr. BLAIR. That was told at both the directors' meeting, and at the stockholders' meeting, and Mr. Higbie was present and asked if we thought that he had better go out of the room while the vote was taken.

Mr. PECORA. That was at the directors' meeting that that occurred, was it not?

Mr. BLAIR. And I believe the stockholders' meeting also, I remember it happened on one occasion.

Mr. PECORA. That occasion, according to the minute book of the directors' meeting, was at the meeting of the directors held on August 20, 1929—the directors of the Union Commerce Corporation.

Mr. BLAIR. I might say, in passing, that the directors of the Union Commerce Corporation represented directly a large percentage of the stock. The stock of the bank and the trust company was not widely distributed. The trust company, at the time of the association of the National Bank of Commerce, had only about 300 stockholders.

Mr. PECORA. How many stockholders did the Union Commerce Corporation have in August 1929? It had then been in existence more than a year.

Mr. BLAIR. That would be purely a guess, Mr. Pecora, but I should say 700 or 800. That is purely a guess, however.

Mr. PECORA. Do you recall what the market quotation was for the capital stock of the Union Commerce Corporation on August 20, 1929, when this plan of acquiring Keane, Higbie & Co. was approved by the board of directors of the Union Commerce Corporation?

Mr. BLAIR. No; I do not.

Mr. PECORA. I understand that the Union Commerce Corporation stock, in June 1929, sold in the open market, principally through the Detroit Stock Exchange, for between \$120 and \$130 a share.

Mr. BLAIR. I thought it was a little lower than that, but I am not positive.

Mr. PECORA. And that on August 20, or thereabouts, at the time the plan was approved by the board of directors of the Union Commerce Corporation, it had gone up to \$180 a share.

Mr. BLAIR. Can you say when it went up? It went up about \$60 one day. I think that was right after I began to talk to the directors, prior to the meeting of the board, and some of them "leaked."

Mr. PECORA. Was that the increase that you had in mind when you said, in your letter to the stockholders of the Union Commerce Corporation of August 21, 1929, which is marked "Exhibit No. 81" in evidence here, as follows [reading]:

The immediate response of our stock in the market to the rumors and final announcement of this prospective affiliation was sufficient indication as to how it is regarded in financial circles.

Mr. BLAIR. Yes, sir.

Mr. PECORA. Then it had that effect?

Mr. BLAIR. It had that effect on the market; yes.

Mr. PECORA. The increase had taken place by that time?

Mr. BLAIR. Yes, sir.

Mr. PECORA. The transfer of the stock of the Union Commerce Corporation to Keane, Higbie & Co. was actually consummated in September 1929, was it not? I think September 10 is the precise date.

Mr. BLAIR. I cannot say definitely, but I should say something like that.

Mr. PECORA. Do you recall what the stock of the Union Commerce Corporation was then quoted at?

Mr. BLAIR. I do not. It went up.

Mr. PECORA. You recall it had undergone a tremendous increase.

Mr. BLAIR. Yes; I think \$240 or \$250 a share. One day it went to the high point, I think, of \$320.

Mr. PECORA. That was between August 20 and September 10, which was the date when the exchange was made.

Mr. BLAIR. I cannot give dates, Mr. Pecora, but it was along about that time.

Mr. PECORA. Can you account for that very substantial sudden increase in the market quotation?

Mr. BLAIR. Only by saying that the speculating public thought that was a chance for a killing.

Senator COUZENS. There was, was there not?

Mr. PECORA. But the speculating public were those that were led to the slaughter.

Mr. BLAIR. I would not say that they were led. They were just ahead of everybody else. They surely were not led by any officers of the Union Commerce Corporation.

The CHAIRMAN. There was no pool or syndicate formed for stock manipulation?

Mr. BLAIR. No, sir.

Mr. PECORA. You referred previously to a report of examination or audit of Keane, Higbie & Co., made by Ernst & Ernst.

Mr. BLAIR. Yes, sir.

Mr. PECORA. A copy of which was submitted to you in the course of your conferences with Mr. Higbie.

Mr. BLAIR. Yes, sir.

Mr. PECORA. I have what purports to be a copy of that report. It is made as of April 30, 1929, and it would give a book value to the capital stock of Keane, Higbie & Co., of \$30.93 a share, approximately, instead of \$60 or \$65 a share.

Mr. BLAIR. Possibly the statement would show that way. As I remember, the book value as shown by the statement at the time we made the deal was something around \$35 a share, or perhaps \$40, but when we took the inventory and applied the values of securities, the market values of securities of that time—

Mr. PECORA. Securities in the portfolio of Keane, Higbie & Co.?

Mr. BLAIR. Yes. This value greatly increased, though it had not been entered on the books.

Mr. PECORA. You said before that in your transaction with Keane, Higbie & Co., or in your negotiations which culminated in the transaction, you made it, informally at least, a condition that Keane, Higbie & Co., in the event of this acquisition of its capital stock by the Union Commerce Corporation, would take care of your informal commitment to Goldman, Sachs & Co. to sell it 30,000 shares of the capital stock of the Union Commerce Corporation.

Mr. BLAIR. Not Keane, Higbie & Co., but the stockholders of Keane, Higbie & Co.

Mr. PECORA. That meant principally Mr. Higbie himself, as the majority stockholder.

Mr. BLAIR. Yes.

Mr. PECORA. Was that imposed actually as a condition to the acquisition of the stock of Keane, Higbie & Co. by the Union Commerce Corporation?

Mr. BLAIR. Yes.

Mr. PECORA. Was any written agreement entered into?

Mr. BLAIR. I cannot remember. I doubt if there was a written agreement entered into between Keane, Higbie & Co. and the Union Commerce Corporation. There may have been. If there was I do not remember.

Mr. PECORA. Was anything said to the board of directors or to the stockholders of the Union Commerce Corporation about that part of the transaction, namely, that the stockholders of Keane, Higbie & Co. would take care of your informal commitment to Goldman, Sachs & Co.?

Mr. BLAIR. Oh, yes; certainly. That certainly would have been told.

Mr. PECORA. Is that indicated by anything in the minute book, either of the board of directors of the Union Commerce Corporation, or the minute book of its stockholders?

Mr. BLAIR. I do not know.

Mr. PECORA. I show you what purports to be a photostatic copy of the minutes of the adjourned special meeting of the stockholders of the Union Commerce Corporation held on September 12, 1929, at which meeting the proposal to acquire the capital stock of Keane, Higbie & Co. was approved and ratified by the stockholders. Will you look through it and see if you can find any reference whatsoever to any transaction whereby the stockholders of Keane, Higbie & Co. were to take care of this informal commitment to Goldman, Sachs & Co.?

Mr. BLAIR (after examining document). I see nothing in there. You understand, of course, that the proposition of Goldman-Sachs had never been submitted to the stockholders.

Mr. PECORA. Was that a firm contract?

Mr. BLAIR. No. It was an agreement on our part to submit the matter first to the board of directors and then to the stockholders if the board of directors approved.

Mr. PECORA. It never reached the stage where it was submitted either to the board of directors or to the stockholders of the Union Commerce Corporation, did it?

Mr. BLAIR. It reached the board of directors; yes.

Mr. PECORA. Did they approve it?

Mr. BLAIR. Yes; I am quite sure of that.

Mr. PECORA. I might say that we have been unable to find any reference to it in the minutes of the board of directors.

Mr. BLAIR. It was discussed with many of them. That is 4 years ago, and I may have forgotten the details.

Mr. PECORA. Was any written offer ever made by or on behalf of Goldman, Sachs & Co.?

Mr. BLAIR. No.

Mr. PECORA. Or any agent or representative of it, to purchase from your company 30,000 shares of its capital stock at \$120 a share?

Mr. BLAIR. There was some correspondence, but the offer itself was made by Mr. Catchings and Mr. Weinberg to the three of us, Messrs. Sanger, Covington, and myself, across the table.

Mr. PECORA. Did you regard it as an offer directed to you and the other two individuals, or as an offer directed to your corporation?

Mr. BLAIR. To the corporation. We could not, as individuals, enter into any deal of that kind—not honestly.

Mr. PECORA. Do you know whether Goldman, Sachs & Co. eventually acquired those 30,000 shares of the Union Commerce Corporation?

Mr. BLAIR. I cannot say of my own knowledge, but I am sure they did. I think the trading corporation got the stock.

Mr. PECORA. That is, the Goldman, Sachs Trading Corporation?

Mr. BLAIR. Yes. I think that was the corporation which got the stock.

Mr. PECORA. Were you in any way a party to the transaction or negotiations whereby that trading company got that stock?

Mr. BLAIR. What do you mean by that? I was a party—I was present when the offer was made.

Mr. PECORA. Were you a party to the negotiations or transaction whereby Goldman-Sachs Trading Corporation actually eventually acquired those 30,000 shares?

Mr. BLAIR. No.

Mr. PECORA. So far as you know, from whom did the Goldman-Sachs Trading Corporation acquire those 30,000 shares of the Union Commerce Corporation?

Mr. BLAIR. I always assumed that they got it pro rata from the stockholders of Keane, Higbie & Co., but I cannot say of my own knowledge. That is simply an assumption on my part.

Mr. PECORA. Among the Keane, Higbie & Co. assets in its portfolio at the time of the acquisition of its capital stock by your company there was a block of over 7,800 shares of the Union Commerce Co.'s stock, was there not?

Mr. BLAIR. I remember that Keane, Higbie & Co. held some stock; yes.

Mr. PECORA. And, of course, that came into the ownership of your corporation through the acquisition of the capital stock?

Mr. BLAIR. Indirectly; yes.

Senator COUZENS. Why do you say "indirectly"?

Mr. BLAIR. Well, it was not owned directly by the corporation; it was owned by the subsidiary of the corporation.

Senator COUZENS. What was the subsidiary?

Mr. BLAIR. Keane, Higbie & Co.

Senator COUZENS. Yes; but when you acquired Keane, Higbie & Co. it came into your possession, didn't it?

Mr. BLAIR. We acquired the stock of Keane, Higbie & Co. It maintained its status as a corporation.

Mr. PECORA. Were you one of the officers of the Union Guardian Trust Co. which in the year 1932, commencing about May of that year, sought to obtain and did obtain a loan for the trust company from the Reconstruction Finance Corporation?

Mr. BLAIR. I was not. I was a director at that time, but not an officer.

Mr. PECORA. Did you take any part in the conferences which were held by representatives of the Union Guardian Trust Co. with representatives of the R.F.C. with regard to such loan or loans?

Mr. BLAIR. I did not.

Mr. PECORA. When, so far as you know, as either an officer or director of the Union Guardian Trust Co. or its predecessor, the Union Trust Co. of Detroit, had that trust company first begun to experience difficulties?

Mr. BLAIR. I don't think we realized that we were having much difficulty until as late as the fall of 1930, maybe a little later than that.

Mr. PECORA. That was about a year after the merger of your holding company with the Guardian Detroit Group?

Mr. BLAIR. Yes.

Mr. PECORA. What caused those difficulties when they were first manifested, in your opinion?

Mr. BLAIR. Withdrawal of deposits.

Mr. PECORA. Isn't it a fact that a large percentage of the total resources of the trust company had been invested in real-estate mortgages or other real-estate obligations?

Mr. BLAIR. A large percentage; yes; but that percentage became larger as the deposits became smaller; and when the deposits became quite small, why, we began to experience the most difficulty, of course. I find here that between December 31, 1928, and December 31, 1930, there had been a decrease of \$11,000,000.

Mr. PECORA. By withdrawals?

Mr. BLAIR. Yes. That decreased in 1931 by another 7 millions and by '32 by another 11 millions.

Mr. PECORA. During those years 1930, '31, and '32 what was the dividend policy of the trust company?

Mr. BLAIR. The trust company paid in the first half of 1930 a dividend at the rate of—

Senator COUZENS (interposing). Twenty percent?

Mr. BLAIR. Twenty percent, I believe.

Mr. PECORA. And the second half of that year at what rate—16 percent?

Mr. BLAIR. I believe 16 percent; yes.

Mr. PECORA. It disbursed in cash dividends to its stockholders, which were the Group, Guardian Detroit Union Group, Inc., in the year 1930 dividends aggregating \$950,000, didn't it?

Mr. BLAIR. I believe that is correct.

Mr. PECORA. Did you sanction the declaration of those dividends?

Mr. BLAIR. I did.

Mr. PECORA. Did you think it was good policy?

Mr. BLAIR. I did at that time.

Mr. PECORA. You already noticed that during 1930 there was a gradual and steadily growing withdrawal of deposits, did you not?

Mr. BLAIR. Not large at all.

Mr. PECORA. How much of a withdrawal took place during the year 1930, actual withdrawal?

Mr. BLAIR. Three millions of dollars, which was not—three millions.

Mr. PECORA. Out of a total of how much?

Mr. BLAIR. Forty-seven. And I am not sure that that was not accounted for largely by the transfer of the investment deposit accounts to the National Bank of Commerce. I won't speak positively about that.

The CHAIRMAN. It seems to me you gave the decrease in deposits much more than that.

Mr. BLAIR. I spoke about the year following, Senator. The year following, 1931, was larger.

Mr. PECORA. What was the extent of the withdrawals for the year 1931?

Mr. BLAIR. Seven millions.

Mr. PECORA. And what dividends were paid by the Trust Co. for that year?

Mr. BLAIR. I do not remember. They were considerably reduced, I know.

Mr. PECORA. Perhaps I can give it to you.

Mr. BLAIR. I believe it was 10 percent, was it not? It may have been 8.

Mr. PECORA. \$500,000.

Mr. BLAIR. That would be 10 percent on 5 millions of capital.

Mr. PECORA. Did you think that was sound policy?

Mr. BLAIR. I did at the time.

Mr. PECORA. Why?

Mr. BLAIR. In the 8 years prior to 1930 the Trust Co. and its subsidiaries had earned \$6,030,000. It had disbursed as dividends, exclusive of a stock dividend of \$500,000, \$2,300,000. It had accumulated in that period for the strengthening of the trust company and for the payment of dividends out of undivided profits if necessary at any time, nearly \$3,750,000.

Mr. PECORA. During what period of time had that accumulation taken place?

Mr. BLAIR. That was in 8 years.

Mr. PECORA. Eight years prior to 1931?

Mr. BLAIR. Prior to 1930. I felt that the depression was not going to last forever, and I surely thought that after the pick-up in the spring of 1930 it was over.

Mr. PECORA. You saw by the end of 1930 that it was not over?

Mr. BLAIR. Yes; but I was not ready to believe it.

Mr. PECORA. Rather that it had become aggravated?

Mr. BLAIR. I was not ready to believe that it had become aggravated.

Mr. PECORA. It had been, hadn't it, by the end of the year 1930?

Mr. BLAIR. Yes; it had become some worse. But I still had faith that the turn would come.

Mr. PECORA. Why didn't you adopt a dividend-paying policy based not upon faith but upon the actual events at the time, on the actual conditions that prevailed?

Mr. BLAIR. Are you asking me that question personally or the board of directors?

Mr. PECORA. No; you. You were a member of the board and you had been president for a number of years.

Mr. BLAIR. I can speak only for myself. I could not speak for the other members of the board. Our dividends were declared after thorough discussion, and the motion always came from the floor.

Mr. PECORA. I am asking you individually why you did not favor the adoption of a dividend policy based upon actual current conditions rather than upon hopes for the future or a record for 8 years prior to 1930?

Mr. BLAIR. I thought that a dividend of that amount was justified by the current earnings.

The CHAIRMAN. How about the earnings? Did your earnings justify it or did you pay it out of undivided profits or surplus or what?

Mr. BLAIR. I think that part of the dividends in 1930 were paid out of undivided profits, a small amount, as I remember it, about \$60,000.

Mr. PECORA. The earnings of the trust company, according to my records, for the year 1929 were \$745,179.11, and during that year and for that year the company paid dividends in cash of \$850,000; in other words, more than a hundred thousand dollars in excess of its earnings.

Mr. BLAIR. Remember this, that does not include the earnings of either the Union Title & Guaranty Co. or of the Union Co. The earnings of the trust company and its subsidiaries were \$821,000 that year.

Mr. PECORA. Whom do you get that from?

Mr. BLAIR. These are from memorandums I had.

Mr. PECORA. Had the subsidiaries paid any dividend for that year to the parent corporation?

Mr. BLAIR. No.

Mr. PECORA. But the earnings of the trust company itself were seven hundred and forty-five thousand and odd dollars for the year 1929, were they not?

Mr. BLAIR. If you do not count the earnings of what the trust company owned.

Mr. PECORA. But those earnings had not been realized by the trust company?

Mr. BLAIR. They had not been transferred.

Mr. PECORA. The dividends paid out in 1929 of \$850,000 were paid out of actually accrued earnings of \$745,000; is that right?

Mr. BLAIR. Yes, sir.

Mr. PECORA. Now, in 1930 what was the relative proportion of dividends paid to the actual earnings of the trust company?

Mr. BLAIR. My remembrance is that they were about \$60,000. That is, the dividends were about \$60,000 more than the earnings.

Mr. PECORA. So to that extent dividends were paid out of undivided profits?

Mr. BLAIR. Yes.

Mr. PECORA. For the year 1930 what reserves against losses had been set up by the trust company?

Mr. BLAIR. I do not remember.

Mr. PECORA. What was the policy of the trust company in that year with respect to the setting up of the reserves against losses?

Mr. BLAIR. I think it set up some small amounts, but I don't remember.

Mr. PECORA. Nothing proportionate to the actual losses, was it?

Mr. BLAIR. When the two companies were merged at the beginning of that year, 31st of the month, something like \$700,000 was taken out of the assets and transferred, as I remember it, to an account which we called the "securities in suspense" or something like that out of which losses were taken. So that we had gotten the trust company pretty clear as far as its assets were concerned. That was done when the two were consolidated.

Mr. PECORA. You were in attendance before this committee when Mr. Stalker was examined here, weren't you?

Mr. BLAIR. Yes.

Mr. PECORA. Do you recall that there were introduced in evidence at that time certain letters, correspondence, that passed between Mr. Stalker and Mr. Lord or other executive officers of the Guardian Detroit Union Group, Inc.?

Mr. BLAIR. Yes.

Mr. PECORA. You recall that in those letters Mr. Stalker called attention to the fact that the dividends which the group had been suggesting be declared by the trust company had not been earned?

Mr. BLAIR. Yes.

Mr. PECORA. And that furthermore the trust company had not made adequate or proper provision for setting up reserves against losses?

Mr. BLAIR. Yes.

Mr. PECORA. That was the situation existent at that time, wasn't it, with regard to the policy of the trust company respecting setting up of reserves?

Mr. BLAIR. The trust company was not setting up reserves in comparison with what it had done in prior years.

Mr. PECORA. In prior years it had set up adequate reserves, had it not?

Mr. BLAIR. More than adequate.

Mr. PECORA. When did it commence to depart from that practice?

Mr. BLAIR. Well, I wouldn't say, but it evidently definitely departed from the practice when it found it impossible in later years to do what it had been possible to do in the earlier years.

Mr. PECORA. When was that stage reached, when it found impossible in later years what it had done before?

Mr. BLAIR. I should say in the latter part of 1930.

Mr. PECORA. Wasn't it also in 1929?

Mr. BLAIR. Oh, no. You called attention to the fact that \$850,000 dividend was paid. As a matter of fact, \$200,000 of that was an extra dividend paid in to the Union Commerce Corporation to pay for the acquiring of some assets. I think, as I remember it—well, I wouldn't attempt to say what those disbursements were. But a considerable amount of cash had been disbursed by the Union Commerce Corporation to acquire some of its units, and this was to eliminate the indebtedness of the Union Commerce Corporation to the trust company. I think a similar dividend was paid by the National Bank of Commerce.

Mr. PECORA. Isn't it a fact that between the years 1925 and 1928 your trust company increased its mortgage loans by almost 300 percent, from about 7 million dollars in 1925 to 18½ million dollars in 1928?

Mr. BLAIR. I have not doubt that is true. It increased its deposits from 17 millions to 42.

Mr. PECORA. These mortgage loans were made out of the demand and short-time deposits the trust company received principally, were they not?

Mr. BLAIR. They were made out of deposits; yes.

Mr. PECORA. And those were demand and short-time deposits principally?

Mr. BLAIR. Yes.

Mr. PECORA. In 1927 the trust company through the New Union Building Co. built this office building that was its home and which I previously referred to as the Aztec Tower?

Mr. BLAIR. Yes.

Mr. PECORA. That was financed in part through the issue of \$2,000,000 of second-mortgage bonds?

Mr. BLAIR. Yes.

Mr. PECORA. Which were sold to the stockholders of the trust company?

Mr. BLAIR. Yes.

Mr. PECORA. At par?

Mr. BLAIR. Yes.

Mr. PECORA. And it was also financed in part through the declaration of a 5 million dollar dividend payable in stock?

Mr. BLAIR. No.

Mr. PECORA. Was it payable in cash?

Mr. BLAIR. No. It was financed in part by the purchase by the trust company of 5 millions of capital of the building company with money which it received—

Mr. PECORA (interposing). From the sale of the 25,000 additional shares of capital stock?

Mr. BLAIR. Yes.

Mr. PECORA. At \$300 a share?

Mr. BLAIR. Yes.

Mr. PECORA. In other words, these 25,000 additional shares were issued at \$300 a share or for a total of 7½ million dollars. Of the proceeds of the sale of that stock 2½ million dollars went to capital and 5 million dollars went to surplus of the trust company?

Mr. BLAIR. Yes.

Mr. PECORA. And that 5 million dollars was used to buy the capital stock of the New Union Building Co.?

Mr. BLAIR. Yes.

Mr. PECORA. Is Mr. Longley here?

Mr. LONGLEY. Right here.

Mr. PECORA. I am through with you, Mr. Blair. Is there anything you want to say to the committee?

Mr. BLAIR. I think not.

The CHAIRMAN. You will be excused for the present then, Mr. Blair.

Mr. BLAIR. Does that mean permanently or just temporarily?

Mr. PECORA. I will let you know later in the day.

Mr. BLAIR. All right.

TESTIMONY OF CLIFFORD B. LONGLEY, GROSSE POINTE FARMS, MICH.

The CHAIRMAN. Mr. Longley, you solemnly swear that the testimony you will give in the matters now under investigation by the committee will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. LONGLEY. I do.

Mr. PECORA. Mr. Longley, will you give your full name, address, and business or occupation to the reporter for the record?

Mr. LONGLEY. Clifford B. Longley, attorney, residence 412 Grosse Pointe Boulevard, Grosse Pointe Farms, Mich.

Mr. PECORA. Were you at one time the president of the Union Guardian Trust Co. of Detroit, Mich.?

Mr. LONGLEY. I was.

Mr. PECORA. When did you become its president?

Mr. LONGLEY. January 1932; I don't remember the exact date.

Mr. PECORA. Prior to that time were you a director of the company?

Mr. LONGLEY. For several months; 4 or 5 months. I don't remember just when I became a director.

Mr. PECORA. Had you been connected with its predecessor company, the Union Trust Co.?

Mr. LONGLEY. No.

Mr. PECORA. Until what date did you continue as president of the Union Trust Co.?

Mr. LONGLEY. Until after the holiday.

Mr. PECORA. That is the banking holiday that was declared on February 13?

Mr. LONGLEY. Well, of course, until after that. The trust company did not go into the hands of the conservator until, oh, possibly a month to 6 weeks afterwards; I have forgotten the date. We had to wait until certain legislation was passed in Michigan before the conservator could be appointed. Until that time the officers and directors continued to function. The holiday continued, of course. You understand that.

The CHAIRMAN. The banks were not open?

Mr. LONGLEY. Oh, no; the holiday continued from the 14th of February onward.

Mr. PECORA. The bank has not been reopened since, has it?

Mr. LONGLEY. It is under conservatorship; yes. It is operating its fiduciary department fully.

Mr. PECORA. Yes; but it has departed from its general banking activities?

Mr. LONGLEY. Oh, no; that is under the conservatorship. That is on a restricted basis. The deposits are tied up.

Mr. PECORA. During the year 1932 an application was made to the R.F.C. in behalf of the Union Guardian Trust Co. for a loan, was it not?

Mr. LONGLEY. There are two applications.

Mr. PECORA. I am talking about the first one.

Mr. LONGLEY. Yes.

Mr. PECORA. When was that made?

Mr. LONGLEY. Just a minute. Let me get my memorandum here. (After referring to data.) I don't believe I have anything that shows the date of the first loan, but, as I remember it, it was early in the spring, and the first funds were received from the R.F.C., perhaps in April, but it was early in the spring.

Mr. PECORA. Do you remember the amount of the loan for which application was first made?

Mr. LONGLEY. Yes; I have that.

Mr. PECORA. What was that?

Mr. LONGLEY. That was \$4,650,000, and for which was pledged \$1,116,650 of bonds and \$8,086,351 in mortgages.

Mr. PECORA. You are giving the face value of those assets, are you not?

Mr. LONGLEY. I am giving the face value of the security. The \$4,650,000 was the amount we received from the R.F.C. in cash.

Mr. PECORA. What was the condition of the Trust Co. at that time which necessitated the obtaining of this loan from the R.F.C.?

Mr. LONGLEY. Lack of liquidity. It lacked liquidity very much.

Mr. PECORA. That lack of liquidity was due in large part to the fact that a large proportion, about 72 percent, as I recall it, of its resources were tied up in real-estate mortgages and other obligations secured by real estate?

Mr. LONGLEY. That was my understanding. A computation was made at my request some time about that time, and that is the figure that sticks in my mind. It is approximately 72 percent, and that is the figure that I testified to in Detroit before the grand jury.

Mr. PECORA. Thereafter was another application made in behalf of the Union Guardian Trust Co. to the R.F.C. for an additional loan?

Mr. LONGLEY. There was.

Mr. PECORA. Do you recall when that was made?

Mr. LONGLEY. As I remember, it was in July. I haven't that date either, I am sorry to say.

Mr. PECORA. 1932?

Mr. LONGLEY. 1932.

Mr. PECORA. Wasn't the application made originally in June?

Mr. LONGLEY. In June?

Mr. PECORA. 1932?

Mr. LONGLEY. It might have been. It might has been. I haven't a thing here to indicate what those dates were. I think we got the money in July, so possibly it was in June.

Mr. PECORA. Prior to your obtaining money from the Reconstruction Finance Corporation in July, did you and other officers and directors of the Trust Co. have conferences with Mr. Congdon representing the R.F.C. with respect to those loans?

Mr. LONGLEY. Yes, sir; I did.

Mr. PECORA. What other officers joined you in those conferences with Mr. Congdon, do you recall?

Mr. LONGLEY. Well, I do not think there were a great many with Mr. Congdon and myself. I think they were the officers who were familiar with the assets, and in charge of the books perhaps, the treasurer and the heads of departments in charge of assets that came from the particular departments.

Mr. PECORA. Were you joined in those conferences by officers and directors of the Guardian Detroit Union Group, Inc.?

Mr. LONGLEY. I do not think so. Mr. Patterson might have been on the fringe of things, or Mr. Hillsman, who were connected with the Group, but I don't think they had anything to do with either the examination or the discussions in connection with the assets. At least I do not remember it. Possibly they did.

Mr. PECORA. How much of a loan from the R.F.C. did your Trust Co. seek to obtain in June of 1932?

Mr. LONGLEY. I do not recall how much was sought to be obtained.

Mr. PECORA. It was approximately \$28,000,000, wasn't it?

Mr. LONGLEY. It was approximately \$28,000,000, did you ask?

Mr. PECORA. Yes.

Mr. LONGLEY. I do not know. I do not think so. We finally got \$15,000,000 altogether.

Mr. PECORA. How much do you think it was?

Mr. LONGLEY. I don't remember. Have you a copy of that application?

Mr. PECORA. Well, I have before me excerpts from the minutes of the meeting of the executive committee of the R.F.C. held on June 29, 1932, which is headed :

Re a conference concerning the proposed application for a loan of \$28,000,000.

Mr. LONGLEY. Well, that might easily be so. I do not remember the details of that application.

Mr. PECORA. Let me read excerpts from the minutes of the executive committee of the board of the R.F.C. held on June 29, 1932, and that may possibly refresh your recollection.

Mr. LONGLEY. All right.

Mr. PECORA. It says :

Mr. Congdon reported that the following officers of the Union Guardian Trust Co. of Detroit, and of the Guardian Detroit Union Group, Inc., had conferred with him concerning a proposed application on the part of the Union Guardian Trust Co. for a loan of approximately \$28,000,000 for the purpose of liquidating in full its liability for deposits, except certain trust deposits and its bills payable, permitting the company to continue business along fiduciary lines only:

C. B. Longley, president of the Union Guardian Trust Co.

E. C. Harris, vice president of the Union Guardian Trust Co.

Robert O. Lord, president of the Guardian Detroit Union Group, Inc., and the Guardian National Bank of Commerce.

James L. Walsh, executive vice president of the Union Guardian Group, Inc., and vice president of the Guardian National Bank of Commerce.

B. K. Patterson, executive vice president of the Guardian Detroit Union Group, Inc.

Mr. Congdon said that these gentlemen had represented that the trust company, because of uncertainty as to its ability to meet anticipated withdrawals of deposits, was in imminent danger of suspension, and that its closing would undoubtedly be followed by the suspension of the entire Guardian Union Group, and probably that of other banks in Detroit and eastern Michigan.

The first proposal of the trust company, he said, was that in order to avoid showing large bills payable, the loan be made to a trustee, to which the trust company would transfer assets which would be offered as security. The general counsel advised that the corporation could not under the law make a loan to a trustee as proposed.

Mr. LONGLEY. Yes; I think that is right.

Mr. PECORA. Do you think that is a fair representation of the facts that had developed up to that time?

Mr. LONGLEY. Probably so. I do not remember them myself, but as I look back at it that is probably quite correct.

Mr. PECORA. Then it is correct to say that prior to June 29, 1932, you, Mr. Harris, a vice president of your Trust Co., and Mr. Lord, Mr. Walsh, and Mr. Patterson, executive officers of the Guardian Detroit Union Group, had entered into conferences with the R.F.C.'s representative, Mr. Congdon?

Mr. LONGLEY. That is right.

Mr. PECORA. Looking toward the obtaining of a loan of approximately \$28,000,000 from the R.F.C. for the Union Guardian Trust Co.?

Mr. LONGLEY. I do not recall the amount, but if that is a copy of the application, undoubtedly it is true.

Mr. PECORA. No. I am reading from the minutes of the R.F.C., and not from the application.

Mr. LONGLEY. Oh, I see. Well, unless you can get some document that comes from the Trust Co., I don't know. I suppose that is right, although the other day when you were reading from the minutes of the R.F.C. I disagreed strongly with what you read. But this may be

true. I would say that it probably was or near the amount as I recollect it.

Mr. PECORA. Well, do you recall that during the spring of 1932 the Trust Co. reached a situation where it desired or thought it best to liquidate in full its liability for deposits and its bills payable, and to have the Trust Co. continue in business only along fiduciary lines?

Mr. LONGLEY. Yes, sir; I do.

Mr. PECORA. What were the circumstances that brought you, as president of the Trust Co., to that frame of mind in the spring of 1932?

Mr. LONGLEY. Principally the condition of the trust company.

Mr. PECORA. Will you tell us what that was?

Mr. LONGLEY. It was in what I found, or at least believed to be, a frozen condition. That is, the assets, or a large part of the credits, were based upon real estate just as I have already said. And the real-estate market in Detroit, and in Michigan, was such—well, there just wasn't any such thing at the time. The properties were valuable, of course. There were many, many very valuable properties that they had in their list of items. I felt that if the trust company could be protected on its deposit liability there should be no trouble at all in its ultimately coming through and protecting that business for the stockholders.

Mr. PECORA. That is, you mean the trust business?

Mr. LONGLEY. Protecting that, and taking care of these assets that belonged to the trust company, and ultimately paying off their debts, which involved paying off those deposits.

Mr. PECORA. When had the real estate market begun to slump?

Mr. LONGLEY. Well, Mr. Pecora, I have never been in the real-estate business, and I am just guessing when I say this, but I should say approximately 1927; perhaps in 1926, although it was not very noticeable, perhaps, until 1927 or 1928. I am not exactly sure about that in my own mind.

Mr. PECORA. Had you and the other gentlemen who participated with you in those conferences with Mr. Congdon, whose names I have read to you from the minutes of the R.F.C., represented to Mr. Condon, in substance, that your trust company, because of the uncertainty as to its ability to meet anticipated withdrawals of deposits, was then in imminent danger of suspension?

Mr. LONGLEY. Well, I do not know the language that was used at all. But I do not believe that we used that language.

Mr. PECORA. Well, what do you recall was said by any of you to Mr. Congdon on that score?

Mr. LONGLEY. I do not remember what was said to Mr. Congdon, but somewhere you will find the application, and in that application we set up the condition as we saw it as to those assets, that they could not be liquidated quickly enough to take care of the deposit liability, and our fear that unless relief was had through loans the deposit liability on some future date could not be met. Now, that application is available it seems to me, and that will show the language we used.

Mr. PECORA. The language you used in the application would be different from the language you used in the conference with Mr.

Congdon, wouldn't it? It would be much more terse and much more concise.

Mr. LONGLEY. Probably. The thing I am trying to stress is that at no time did we have any question about the value of those assets. It was a question of unfreezing them and getting liquidity. And that was pointed out very carefully and in very careful language. That is why I go back to the application.

Mr. PECORA. Don't you recall the substance of the conferences with Mr. Congdon?

Mr. LONGLEY. Yes, sir.

Mr. PECORA. Prior to the filing of the formal application?

Mr. LONGLEY. Well, we had a good many of them.

Mr. PECORA. I am not confining you to any one particular conference, now, but to the general course of them.

Mr. LONGLEY. We talked all these things over, and I haven't the slightest recollection of just what was said. However, it is all covered in substance by our application.

The CHAIRMAN. How much was that application for?

Mr. LONGLEY. I suppose that it was for the amount mentioned by Mr. Pecora in those minutes. I do not remember myself, Senator Fletcher.

The CHAIRMAN. It was for 28 million dollars?

Mr. LONGLEY. I think it was an application to take care of the deposit liability of the trust company.

The CHAIRMAN. And do you know what that liability was?

Mr. LONGLEY. It was around 28 million dollars, I think.

The CHAIRMAN. What became of it?

Mr. LONGLEY. The application?

The CHAIRMAN. Yes.

Mr. LONGLEY. They finally made a loan with the R.F.C. officials that would take care of us, as they thought. At least Mr. Congdon and Mr. Sheehan thought so, or they hoped it would, anyway.

The CHAIRMAN. How much was it?

Mr. LONGLEY. Wait a minute and I can give you that. (Looking through some papers.)

Mr. PECORA. Do you recall that it was said to Mr. —

Mr. LONGLEY (interposing). One minute, Mr. Pecora. I am trying to answer Senator Fletcher's question if I can.

Mr. PECORA. Pardon me.

Mr. LONGLEY. It seems to be $11\frac{1}{2}$ million dollars, Senator Fletcher, on the second application.

The CHAIRMAN. That is in addition to the \$4,750,000?

Mr. LONGLEY. Yes, sir.

Mr. PECORA. Do you recall that it was stated, in substance, to Mr. Congdon in those conferences prior to June 29, 1932, that the closing of the Union Guardian Trust Co., if it should become closed, would be followed undoubtedly by the suspension of the entire Guardian Detroit Union Group banks?

Mr. LONGLEY. Yes, sir; that is right.

Mr. PECORA. That was stated to him, wasn't it?

Mr. LONGLEY. Why, I think so. That is what I thought.

Mr. PECORA. Will you tell the committee on what you based your judgment that if the Union Guardian Trust Co. had to suspend

in the spring or summer of 1932, its suspension would be followed undoubtedly by the suspension of other banking units of the Guardian Detroit Union Group?

Mr. LONGLEY. I felt that with the close association of those institutions through their holding company, the publicity that had been given since its organization, and the fact that these institutions were affiliated companies would undoubtedly react on the other companies in the group. And with conditions as they were, and the lack of liquidity in all the banks at that time, I did not believe, if the largest trust company in the city of Detroit were to be closed, there would be other than a very serious reaction against the others, if not a fatal one. At least I felt it would probably be fatal. Perhaps others did not think so, but I don't know about that.

Mr. PECORA. Mr. Chairman, with regard to the information you sought of the witness a moment or two ago, may I call your attention to the fact that there was introduced in evidence on yesterday a statement showing the status of the loans made by the R.F.C. to banks in the Guardian Detroit Union Group as of December 19, 1933; and that that statement shows the following loans authorized to the Union Guardian Trust Co.:

\$4,250,000, May 24, 1932; \$400,000, October 7, 1932; \$8,733,000, July 5, 1932; \$2,767,000, September 14, 1932.

The CHAIRMAN. All right.

Mr. LONGLEY. That makes a total of \$16,000,000, doesn't it?

Mr. PECORA. About that.

Mr. LONGLEY. All right.

Mr. PECORA. While of those various loans the following amounts were canceled: \$33,150.96, \$3,474,629.45.

Mr. LONGLEY. I have a letter from the local Reconstruction Finance Corporation agency in Detroit, which shows the state of the second application on February 8, if that is any aid to you.

The CHAIRMAN. All of the stock of the Union Guardian Trust Co. at that time was held by the holding company, wasn't it?

Mr. LONGLEY. Yes; Senator Fletcher, by the Guardian Detroit Union group, except for qualifying shares.

Mr. PECORA. Do you recall appearing before the board of directors of the Reconstruction Finance Corporation at its meeting held on July 5, 1932, in company with the following gentlemen: Henry Bodman, who then was chairman of the Board of the Union Guardian Trust Co.; Ernest Kanzler, chairman of the board of the Guardian Detroit Union group, Inc.; Robert O. Lord, president of the Guardian Detroit Union Group, Inc.; James L. Wash, executive vice president of the Guardian Union group, Inc.

Mr. LONGLEY. Yes, sir; I do.

Mr. PECORA. What representations were made to the directors of the R.F.C. at that time concerning the condition of the Union Guardian Trust Co. and of the Guardian Detroit Union Group, Inc., and its unit banks?

Mr. LONGLEY. I do not know that any representations were made about the Guardian Detroit Union Group. I think our discussion surrounded the trust company, and in that connection it was pointed out very clearly that with the unliquid condition of the assets of the corporation, and the necessity for meeting withdrawals on time—

well, the consequences of closing the institution, and all those things, were pointed out in some detail.

The CHAIRMAN. How much have the depositors received?

Mr. LONGLEY. How much had they received?

The CHAIRMAN. How much have they now received?

Mr. LONGLEY. So far the general depositors have not received anything. As to the A funds that you were talking about this morning, I do not know how much they have received, but there is available somewhere between 80 and 90 percent of that in cash.

Mr. PECORA. Of the A funds?

Mr. LONGLEY. Yes, sir.

Mr. PECORA. Those were the funds against a 100 percent reserve that was required to be set up by the trust company?

Mr. LONGLEY. That is right.

Mr. PECORA. Let me read to you the following excerpt from the board meeting of the R.F.C. held on the 5th of July 1932, at which you were present, together with Mr. Bodman, Mr. Kanzler, Mr. Lord, and Mr. Walsh:

Mr. Bodman explained the problems confronting the 21 banks in Detroit and vicinity controlled by the Guardian Group, and stressed the seriousness of the situation. The Board informed the bank officers present of its action in authorizing an emergency loan to the Union Guardian Trust Co. in the amount of \$8,733,000, which it understood would relieve the situation temporarily, and indicated that it would consider making additional advances after the special committee had completed an examination of the collateral. The board, however, expressed the view that the stockholders, large depositors, and others interested in these institutions, should be consulted by the management of the banks concerned and an effort made to formulate a program designed to meet the problems presented and to strengthen the position of the banks.

Do you recall that?

Mr. LONGLEY. I remember one large depositor that was mentioned.

Mr. PECORA. Do you recall that general discussion?

Mr. LONGLEY. Yes; but I don't remember that there was more than one depositor that was mentioned.

Mr. PECORA. More than one what?

Mr. LONGLEY. Depositor.

Mr. PECORA. And that was the Ford Motor Co.?

Mr. LONGLEY. That is right.

Mr. PECORA. When the board of the Reconstruction Finance Corporation expressed its view to you gentlemen that the stockholders, large depositors, and others interested in these banks of the Guardian Detroit Group, should be consulted by the management of the banks concerned, and an effort made to formulate a program designed to meet the problems presented and to strengthen the position of the banks what, if anything, do you recall was done by the board and the officers of the Guardian Detroit Union Group?

Mr. LONGLEY. Well, about that time or a little after that time Mr. Hillsman of the Group Co. was loaned to the trust company for the purpose of working out some method of balancing our budget, and to see what we could do in getting a little faster liquidation if possible, cutting expenses, and doing those things that we felt were necessary to do to bring the thing through.

Mr. PECORA. Well, that is using rather general terms as you must recognize.

Mr. LONGLEY. I do not know that I could be more specific. Somewhere you will find in the files of the trust company a carefully drawn plan that we laid out. It was a list of items that we tried to cover. I do not know whether you have that paper there or not. If you have that it will give you a pretty clear idea of what we tried to do.

Mr. PECORA. Can you give the substance of it to us without having that statement before you?

Mr. LONGLEY. I cannot give you the figures.

Mr. PECORA. Give us your general plan.

Mr. LONGLEY. It was a reorganization of departments: a doubling up in some instances, an effort to cut down overhead; an effort to cut interest, which of course we were a little bit afraid to do. With certificates of deposit that had been drawing 4-percent interest in an institution for a good many years, we were afraid of cutting the interest, for fear that there might be drastic withdrawals, which we did not want. We tried to meet the expense side of the question as drastically as we could. At the same time we tried to build up the earnings side. That is the main picture.

The CHAIRMAN. What was the total amount of those A funds at the time of the bank holiday?

Mr. LONGLEY. (after looking through some papers). Five million four hundred ninety-three thousand dollars.

The CHAIRMAN. They had been deposited in banks not related to the group, as I understand, and was there any interest paid to the trust company on those deposits?

Mr. LONGLEY. A very small rate of interest. I don't remember what it was. But I think there was in some instances a very small rate, one half percent or one quarter percent perhaps.

Mr. PECORA. As a matter of fact were those class A funds deposited, in the years 1930, 1931, and 1932, mainly in banks not affiliated or connected with the group?

Mr. LONGLEY. In 1930, 1931, and 1932?

Mr. PECORA. Yes.

Mr. LONGLEY. I do not believe I could tell you whether they were or not, or where they were then. But in 1932 I think they were mainly deposited in the Guardian, in an affiliated bank.

Mr. PECORA. Yes; and do you know if they were withdrawn from that deposit account and placed on deposit in any bank unaffiliated with the Guardian Detroit Union Group?

Mr. LONGLEY. Yes. We tried to place them in banks that were entirely unaffiliated. And we tried to place all of them that way. Perhaps I have something here on that. (Beginning to look through some papers.)

Mr. PECORA. When was that policy pursued?

Mr. LONGLEY. When Mr. Bodman became chairman one of the first things that he did was to—or one of the things early in the year, and I don't know whether it was first or not, but early in 1932 he wrote me a letter in which he stated he felt that the funds belonging to the trust company, that is, that were segregated funds of the trust company, with this 100 percent reserve which would take care of the trust moneys, should not be deposited in any of the affiliated

institutions where they might be making earnings on them. I think somewhere there is that letter. I don't know whether you have it or not.

Mr. PECORA. I show you, Mr. Longley, what purports to be a photostatic copy of a letter addressed to you as president of the Union Guardian Trust Co., by Mr. Henry E. Bodman, dated April 26, 1932. Will you please look at it and tell me if you recognize it to be a true and correct copy of such a letter that you received from Mr. Bodman on about the date it bears?

Mr. LONGLEY. Yes; this is a copy of that letter.

Mr. PECORA. Mr. Chairman, I offer it in evidence.

The CHAIRMAN. Let it be admitted.

(A letter dated Apr. 26, 1932, addressed by Henry E. Bodman, to Clifford B. Longley, president of the Union Guardian Trust Co., Detroit, was marked "Committee exhibit no. 83, January 16, 1934", and will be found immediately following where read by Mr. Pecora.)

Mr. LONGLEY. May I read that before you read it?

Mr. PECORA. Do you want to read it to yourself, do you mean?

Mr. LONGLEY. Yes.

Mr. PECORA. All right. You may do so.

Mr. PECORA. The letter received in evidence as "Committee Exhibit No. 83" is on the letterhead of Henry E. Bodman, attorney and counsellor at law, Detroit, and reads as follows [reading]:

COMMITTEE EXHIBIT NO. 83

APRIL 26, 1932.

Mr. CLIFFORD LONGLEY,

President Union Guardian Trust Co., Detroit, Mich.

DEAR MR. LONGLEY: I want to bring up again the matter that I suggested to you some time ago which relates to the deposit by the Trust Company of trust funds in Guardian National Bank of Commerce or any other bank with which the Company is affiliated in the Group. I am not questioning the advisability of such a deposit if these institutions were not affiliated but it seems to me that in view of their affiliation another depositary or depositaries ought to be found. I think it is much better for any trust company to select an independent depositary in which it has no financial interest, either directly or through the common stock ownership.

Yours very truly,

HENRY E. BODMAN.

You will notice, Mr. Longley, that in this letter to you, which is dated April 26, 1932, Mr. Bodman calls attention to the fact that the subject matter of this letter related to a suggestion that he had made to you some time prior to April 26, 1932.

Mr. LONGLEY. That is right; he had, verbally.

Mr. PECORA. About how long prior to April 26, 1932, had he made such a suggestion?

Mr. LONGLEY. I do not remember that.

Mr. PECORA. Was it a matter of months before?

Mr. LONGLEY. Oh, no; it was after both he and I went in to the trust company; I would say, possibly a few weeks before, or two or three weeks, or possibly a month before.

Mr. PECORA. When did you begin to act on the suggestion embodied in this letter of Mr. Bodman's?

Mr. LONGLEY. Not until probably November.

Mr. PECORA. Of 1932?

Mr. LONGLEY. Yes.

Mr. PECORA. Why the delay?

Mr. LONGLEY. Because I had too much else to do. I was under great pressure at the time. I felt that those funds had ridden in that way for all time past, as far as I knew, and it was not until finally I turned the matter over to Mr. Maurice, our executive vice president, that it was done. He did not even get at it until late in December or early in January.

Mr. PECORA. Of the following year?

Mr. LONGLEY. Yes.

Mr. PECORA. Do you see on the face of exhibit no. 83 any stamp or date indicating when this letter was filed among the records of the Union Guardian Trust Co.?

Mr. LONGLEY. There is an "O.K. File" and "M. G. H."

Mr. PECORA. Any date of filing?

Mr. LONGLEY. I do not see any date.

Mr. PECORA. You do not see any date of filing on the face of that exhibit?

Mr. LONGLEY. No; I do not.

Mr. PECORA. Will you hold it up to the light now?

Mr. LONGLEY [holding exhibit no. 83 to the light as suggested]. Yes; I do.

Mr. PECORA. Now you see it, do you?

Mr. LONGLEY. Yes.

Mr. PECORA. What date is shown there?

Mr. LONGLEY. I cannot make it out.

Mr. PECORA. Hold it up to the light. It is some date in April 1933, is it not?

Mr. LONGLEY [again holding the letter to the light]. That might be. It might be that that was in my file, and Miss Hand, whose initials are "M. G. H.", my secretary at that time, turned it over to the files of the trust company.

Mr. PECORA. She turned it over about a year after the letter was received?

Mr. LONGLEY. No; she turned it over when I left the trust company.

Mr. PECORA. The date of filing shown by that stamp, which is visible only by holding the document up to the light, is in April 1933?

Mr. LONGLEY. You will find it far more visible on the original.

Mr. PECORA. I have no doubt of that. But the date of filing, as I make it out, is April 12, 1933, or April 19, 1933.

Mr. LONGLEY. That might very easily be. Such letters as were addressed to me personally went into my own file in the Trust Co. office, and when I left they were turned over to the secretary to file in the general file. That is probably how that date came on there.

Mr. PECORA. At the time of the writing of this letter, or the date which it bore, namely, April 26, 1932, these class B trust funds of your trust company were carried in a deposit account together with the general funds of the Trust Co. at the Guardian National Bank of Commerce, were they not?

Mr. LONGLEY. At what date did you say?

Mr. PECORA. In April 1932.

Senator COUZENS. Are you referring to the B funds?

Mr. PECORA. The B funds and the general funds.

Mr. LONGLEY. Surely; as were most of the others.

Mr. PECORA. The A funds as well?

Mr. LONGLEY. I think so.

The CHAIRMAN. What did you do with the proceeds of the loan from the R.F.C.?

Mr. LONGLEY. During 1932?

The CHAIRMAN. Yes.

Mr. LONGLEY. We used it to pay depositors.

The CHAIRMAN. At that time?

Mr. LONGLEY. During 1932. We liquidated approximately \$5,000,000 of our own assets, as I remember, and—wait just a minute [referring to memoranda]. We paid off \$11,000,000 deposits in 1932 and we borrowed \$9,400,000.

The CHAIRMAN. Were there constant withdrawals?

Mr. LONGLEY. Yes.

The CHAIRMAN. No runs?

Mr. LONGLEY. No runs; but approximately a million a month.

The CHAIRMAN. You did not bolster up the reserve out of these funds?

Mr. LONGLEY. They were already taken care of 100 percent, and had been since 1910, as Mr. Blair already testified to. That money had been set aside 100 percent.

The CHAIRMAN. You only got about 80 or 90 percent?

Mr. LONGLEY. Because there is a certain amount of it in the First National Bank of Detroit. We had taken it out of our own banks and we left some in Detroit.

Mr. PECORA. The B funds and the general funds for the most part, at the time Mr. Bodman wrote you this letter, were carried on deposit in the downtown branch of the Guardian National Bank of Commerce, were they not?

Mr. LONGLEY. Yes; and they were at the time of the holiday. There was no change.

Mr. PECORA. At that same time were not the class A trust funds deposited by your trust company in three separate accounts, the principal one being maintained at the uptown branch of the Guardian National Bank of Commerce?

Mr. LONGLEY. This was in 1932, you mean?

Mr. PECORA. Yes, sir.

Mr. LONGLEY. Yes; I think that is correct.

Mr. PECORA. And the balance of these class A trust funds were deposited in two other accounts, one of which was maintained at the First National Bank of Detroit and the other of which was maintained at the Continental Illinois Bank & Trust Co., of Chicago; is that not so?

Mr. LONGLEY. Yes; as I recollect it, that is true.

Mr. PECORA. When was the withdrawal made of these funds out of the account maintained in the Guardian National Bank of Commerce in pursuance of the suggestion made in Mr. Bodman's letter to you of April 26, 1932?

Mr. LONGLEY. The A funds?

Mr. PECORA. Not only the A funds, but the B funds as well.

Mr. LONGLEY. The B funds were not turned over, as far as I know. Mr. PECORA. How about the A funds?

Mr. LONGLEY. Some time in January. Although I think Mr. Maurice went to Cleveland and to Chicago to look into the question of depositories in November or December, the actual moves were not made until January.

Mr. PECORA. Why were they withdrawn in January 1933?

Mr. LONGLEY. In furtherance of this policy that we decided on.

Mr. PECORA. This policy had been urged upon you back in April 1932, by Mr. Bodman?

Mr. LONGLEY. Yes, sir.

Mr. PECORA. Who was not only the attorney for the bank, but also on its board of directors?

Mr. LONGLEY. No; he was not attorney for the bank. Mr. Hill was attorney for the bank.

Mr. PECORA. But he was attorney for the group?

Mr. LONGLEY. That is right.

Mr. PECORA. Why was action taken on this suggestion of Mr. Bodman in January 1933 and not before?

Mr. LONGLEY. So as to get the job done finally.

Mr. PECORA. Why was it not done before that date?

Mr. LONGLEY. Because I just didn't do it, probably. I finally turned it over to Mr. Maurice, as I say, some time later in the year, and he handled the matter from then on. I just didn't do it.

Mr. PECORA. What focused your attention on the matter late in the year 1932?

Mr. LONGLEY. Mr. Bodman repeatedly brought it to my attention later in the year.

Mr. PECORA. He kept reminding you of it?

Mr. LONGLEY. He did, finally.

Mr. PECORA. It was a matter of importance, was it not?

Mr. LONGLEY. I suppose; but there were a lot of matters of importance right at that particular time, if you remember the period.

Mr. PECORA. Was your decision to transfer this account from the Guardian National Bank of Commerce to banks unaffiliated with the Guardian Detroit Union Group arrived at in January 1933 because of some consciousness you then had of the imminent suspension of the Trust Co. and its consequent effect upon the unit banks of the group?

Mr. LONGLEY. No, sir.

Mr. PECORA. That had nothing to do with it?

Mr. LONGLEY. That had absolutely nothing to do with it. Even on February 10, or something of that sort, there was a deposit of A funds made in the First National Bank of Detroit. That would not indicate such a thing as you are intimating.

Mr. PECORA. Have you any records or knowledge which would enable you to tell this committee the date when these withdrawals of funds took place from the Guardian National Bank of Commerce; that is, of the class A trust funds?

Mr. LONGLEY. No; I have no records.

Mr. PECORA. Our records show that on January 12, 1933, the sum of \$1,233,000 was withdrawn from the Guardian National Bank of Commerce and deposited in the following institutions in the respective amounts which I will state:

\$200,000 deposited in the National City Bank of Cleveland; \$260,000 deposited in the Farmers' Deposit National Bank of Pittsburgh; \$43,000 deposited in Union Trust Co. of Pittsburgh; \$500,000 deposited in Bankers Trust Co. of New York, and \$230,000 deposited in the Chemical Bank & Trust Co. of Detroit.

Does that accord with your recollections of the facts, Mr. Longley?

Mr. LONGLEY. I have no recollection of it, but I have a note here that I secured of these transactions from the trust company before I left, and that accords exactly with the note that I have.

Mr. PECORA. I asked you just before I gave you this information if you had any record or information.

Mr. LONGLEY. Oh, well, I have no records of the trust company—none of the trust company records. I just have a memorandum made for my own benefit here. I am sorry.

Mr. PECORA. That is all right. Who selected these depositaries?

Mr. LONGLEY. Mr. Maurice.

Mr. PECORA. I notice they were all located outside of the State of Michigan.

Mr. LONGLEY. No. I do not think so. Oh, those were, yes; but I think the First National—

Mr. PECORA. I am talking now about these withdrawals of \$1,233,000 on January 12 and the distribution of them, in the amounts stated, among the other depositaries named.

Mr. LONGLEY. You are right.

The CHAIRMAN. Those were A funds?

Mr. PECORA. Those were all A funds; yes, sir.

Who selected these depositaries from outside the State of Michigan?

Mr. LONGLEY. Mr. Frank Maurice, our executive vice president.

Mr. PECORA. Do you know the reason for selecting depositaries outside of the State of Michigan for those funds on January 12, 1933?

Mr. LONGLEY. Only that we were selecting nonaffiliated banks. As I said before, you will finally come to where deposits were made in the First National Bank, which is inside the State of Michigan.

Mr. PECORA. I am going to come to that. Was that the first time the trust company had any banking transactions, involving the making of deposits, with any of these out-of-the-State banks?

Mr. LONGLEY. I do not know that; I could not tell you that without checking the list of banks. There are a great many of them, and I do not know. I do not think all these were new depositaries.

Mr. PECORA. Prior to January 12, 1933, had your trust company or the Guardian Detroit Union Group, Inc., obtained any loans from any of the 5 banks in which it made these deposits of January 12, 1933?

Mr. LONGLEY. Obtained any loans?

Mr. PECORA. Yes.

Mr. LONGLEY. You say, the Group Co. or the affiliates?

Mr. PECORA. I say, the Group Co. or the trust company.

Mr. LONGLEY. Yes.

Mr. PECORA. From which banks?

Mr. LONGLEY. The Group Co. had a loan from the Bankers Trust Co.

Mr. PECORA. That was a loan of 4½ million dollars; that was a loan that was obtained upon 5 million dollars' worth of collateral which Edsel Ford had loaned to the group for the purpose of obtaining some loan?

Mr. LONGLEY. Yes. I think you will find—I may be wrong in this, but it is my recollection—that that collateral was used to strengthen the collateral behind that loan. It was not a new loan that was made on that 5 million dollars' worth of securities, but that was injected into the loan as additional collateral. I may be wrong, but that is my understanding; and that it was a much larger loan than 4½ millions.

Mr. PECORA. There has been evidence presented to this committee about that, and it is already in the record.

On the following day, namely, January 13, 1933, did not your trust company withdraw \$500,000 that you had deposited, representing these class A trust funds, from the First National Bank of Detroit and deposit it in the Central Hanover Bank & Trust Co. in New York?

Mr. LONGLEY. That is the way my memorandum reads. I have no recollection of my own about it.

By the way, Mr. Pecora, you did not finish up this previous question.

Mr. PECORA. What was that?

Mr. LONGLEY. In the list of depositories on January 12, 1933, you mentioned the Chemical Bank & Trust Co.

Mr. PECORA. Yes.

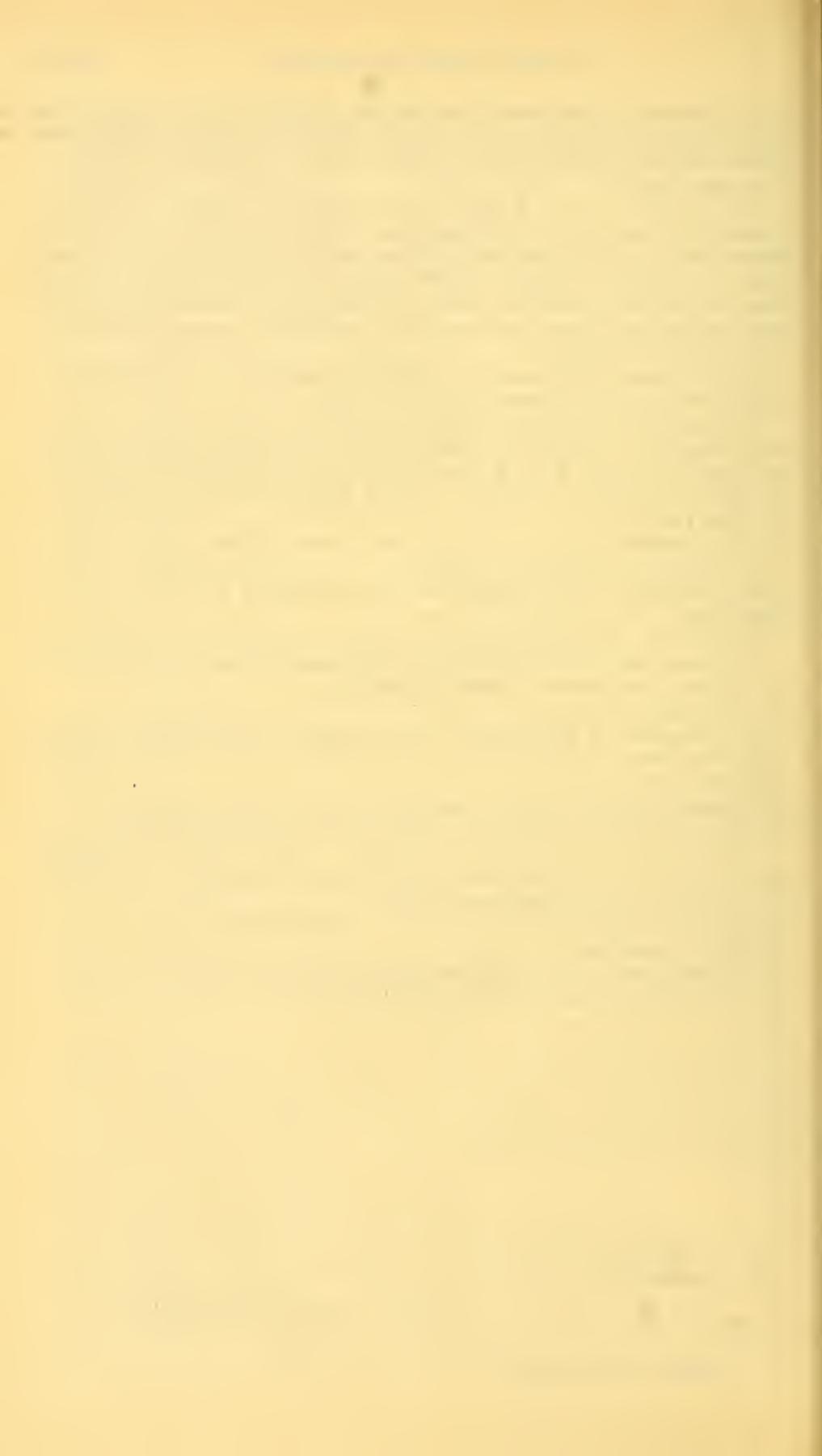
Mr. LONGLEY. I believe the trust company itself had had a loan with them some months previous, not at this time—if that is of any interest to you.

Senator COUZENS. May I ask why you withdrew \$500,000 from the First National Bank and transferred it to another bank?

Mr. LONGLEY. I do not know, Senator. You would have to ask Mr. Maurice. He undertook to select those depositories, and I was out of it; I had too much else to do.

The CHAIRMAN. The committee will take a recess until 10 o'clock tomorrow morning.

(Whereupon, at 4.05 p.m., the committee took a recess until tomorrow, Wednesday, Jan. 17, 1933, at 10 a.m.)



STOCK-EXCHANGE PRACTICES

WEDNESDAY, JANUARY 17, 1934

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE ON
BANKING AND CURRENCY,
Washington, D.C.

The subcommittee met at 10 a.m. pursuant to adjournment on yesterday, in Room No. 301, of the Senate Office Building, Senator Duncan U. Fletcher presiding.

Present: Senators Fletcher (chairman), Adams, and Couzens.

Present also: Ferdinand Pecora, counsel to the committee, Julius Silver and David Saperstein, associate counsel to the committee; and Frank J. Meehan, chief statistician to the committee.

The CHAIRMAN. The subcommittee will come to order.

TESTIMONY OF CLIFFORD B. LONGLEY, GROSSE POINTE FARMS, MICH.—Resumed

Mr. PECORA. Mr. Longley, just before adjournment yesterday afternoon you were asked by Senator Couzens the question as to why the sum of \$500,000 of capital A trust funds which were on deposit to the credit and account of the Union Guardian Trust Co. in the First National Bank of Detroit, were withdrawn and transferred to another bank. You answered as follows [reading]:

I do not know, Senator. You would have to ask Mr. Maurice. He undertook to select those depositories, and I was out of it. I had too much else to do.

Mr. LONGLEY. In that connection, let me state this further: That question of Senator Couzens is as to why he passed it from one bank to another.

Mr. PECORA. Yes.

Mr. LONGLEY. I cannot tell you that. But I can tell you this: The deposits on February 11, of A funds in that particular bank were greater than they had been, on an average, for the 6 months preceding.

Mr. PECORA. On February 11, 1933?

Mr. LONGLEY. That is right. The deposits, if you would like to have them, in the First National Bank of Detroit, for June, July, August, September, October, November, and December were as follows—and I can give them to you as they appear on the 10th, 20th, and the last day of the month.

Mr. PECORA. All right.

Mr. LONGLEY. Only July 10 they were \$853,000; July 20 they were \$860,000; July 31, \$881,000.

Mr. PECORA. As of what year?

Mr. LONGLEY. This is 1932. The preceding 6 months—no; it does not include January. I have not got those figures, but that was when the movement was taking place. On August 10 there was \$617,000; August 20 there was \$417,000; August 31, \$421,000; September 10, \$561,000; September 20, \$306,000; September 30, \$307,000; October 10, \$611,000; October 20, \$406,000; October 31, \$580,000; November 10, \$626,000; November 20, \$495,000; November 30, \$287,000. On December 10 there was \$513,000; December 20, \$651,000; December 31, \$692,000. On February 11, in that same depository, there was \$702,213.48. The average for those deposits that I have given you is something less than \$600,000.

I would like to say this also in connection with this thing. On February 11—

Mr. PECORA. 1933?

Mr. LONGLEY. 1933—there was total cash shown on the statement of \$7,313,000.

Senator COUZENS. What statement?

Mr. LONGLEY. Shown on the statement of condition of the Union Guardian Trust Co. as of February 11, 1933, \$7,313,000. Of that, \$2,346,000 was in Detroit banks.

Mr. PECORA. Two million—

Mr. LONGLEY. I am talking about A and B funds.

Mr. PECORA. Two million—

Mr. LONGLEY. \$2,346,000.

Senator COUZENS. Can you separate them?

Mr. LONGLEY. Yes, sir. Would you like to have them in all the banks, or just in the Detroit banks?

Mr. PECORA. Separate them as to class A and class B funds.

Mr. LONGLEY. Yes. I can do that.

Senator COUZENS. You said there were \$7,000,000 in your own trust company?

Mr. LONGLEY. Oh, no. They are deposits of the trust company in Detroit banks.

Senator COUZENS. In Detroit banks?

Mr. LONGLEY. No; deposits of the trust company in all banks on that date were \$7,313,000.

Senator COUZENS. Divide that figure as between A and B.

Mr. LONGLEY. All right. Of the total cash, \$7,313,000 on February 11, there was \$5,493,061.92 in A money, A cash. In B cash there was \$1,820,978.25. Of that total of \$7,313,000 there was \$2,346,000 still in Detroit, and that is made up in this way. In the First National Bank—

Mr. PECORA. Pardon me. Can you separate that \$2,346,000 into class A and class B funds?

Mr. LONGLEY. That is what I am doing now.

Senator COUZENS. That last \$5,000,000 is class B, is it not?

Mr. LONGLEY. No, indeed. I am going to give you the figures right now. In the A funds which were deposited in the First National Bank of Detroit, there was \$702,213.48. Those are the A funds. There was \$1,644,450.97 of B funds, and those were in the Guardian National Bank of Commerce.

There was also an account of \$2,500 in the Highland Park State Bank, a special account of some sort which, by the way, I did not add in there. If you want to add that in, it is all right.

So, we have, as a consequence, after this transfer, more A funds in the First National Bank of Detroit than had previously been deposited there, and we have further, out of the whole of the funds of the trust company, \$2,300,000 out of \$7,300,000 still in Detroit banks on February 11.

Mr. PECORA. Can you explain, then, any reason why \$500,000 on deposit on January 13, 1933, in the First National Bank of Detroit was withdrawn and deposited in the Central Hanover Bank & Trust Co. of New York?

Mr. LONGLEY. I can tell you this, that it was the custom to withdraw funds from out-of-town banks and put them through the local depositories before transferring them to other depositories. We did not care to have some of these out-of-State banks know just where the funds were going, and so we transferred them through Detroit depositories. My answer to Senator Couzens last night was that I did not know just why, and that is the nearest I can come to explaining. Mr. Maurice could probably tell you about that, if it is important.

Mr. PECORA. When you refer to out-of-State banks do you mean banks outside the State of Michigan?

Mr. LONGLEY. Yes. If you would care to have it, I would be glad to introduce this statement as of February 11, showing the funds in these various banks.

Mr. PECORA. Yes.

Mr. LONGLEY. This is a copy of it [producing paper].

Mr. PECORA. Do you know that it is correct?

Mr. LONGLEY. I only know that I asked for it and got it.

Mr. PECORA. Who prepared it?

Mr. LONGLEY. The treasurer of the trust company. At least, I got it from him. I would also be glad to introduce the statement as of December 31, 1932, if that is of any interest.

Mr. PECORA. All right.

Mr. LONGLEY. I would like to use them.

Mr. PECORA. I will offer the first statement in evidence, entitled "General journal and statement of condition" of the Union Guardian Trust Co., as of February 11, 1933.

The CHAIRMAN. Let it be admitted.

(Statement entitled, "General journal and statement of condition" Union Guardian Trust Co., Feb. 11, 1933, was received in evidence, marked "Committee Exhibit No. 84, Jan. 17, 1934", and the same will be found at the conclusion of today's proceedings.)

Mr. PECORA. I also offer in evidence the other statement produced by the witness, entitled "General journal and statement of condition" of the Union Guardian Trust Co. as of December 31, 1932.

Mr. LONGLEY. You will find on the back the list of these depositories, with amounts.

Mr. PECORA. Yes.

Mr. LONGLEY. That is where I take my figures.

The CHAIRMAN. Let it be admitted.

(Statement entitled "General journal and statement of condition" Union Guardian Trust Co., Dec. 31, 1932, was received in evidence, marked "Committee Exhibit No. 85, Jan. 17, 1934", and the same will be found at the conclusion of today's proceedings.)

Mr. PECORA. Are you familiar with the transaction whereby, on January 17, 1933, the sum of \$125,501 was withdrawn by the Union Guardian Trust Co. from the National City Bank of Cleveland, and certificates of deposit purchased?

Mr. LONGLEY. Yes. That was in the course of the same series of transfers of these "A" funds, which resulted, as I have already stated, in the deposits being as they were on February 11.

Mr. PECORA. And on the same date, namely, January 17, 1933, \$227,681.82 was withdrawn by the Union Guardian Trust Co. from the Farmers Deposit National Bank of Pittsburgh?

Mr. LONGLEY. That is right.

Mr. PECORA. And certificates of deposit purchased.

Mr. LONGLEY. That is right.

Mr. PECORA. That was part of the same plan?

Mr. LONGLEY. Part of the same plan. It was a readjustment of all those accounts with the old depositories and the new depositories.

Mr. PECORA. On January 18, 1933, the sum of \$400,000 was deposited in the Union Trust Co. of Pittsburgh?

Mr. LONGLEY. That is true.

Mr. PECORA. Those were "A" funds?

Mr. LONGLEY. Those were "A" funds; yes, sir. Those were all part of this same series of transfers.

Mr. PECORA. On the same date \$81,731.70 was deposited in the First National Bank—there were two deposits.

Mr. LONGLEY. That is right.

Mr. PECORA. One of \$81,731.70, and another of \$250,000 were made in the First National Bank of Detroit.

Mr. LONGLEY. That is right; a total of \$331,731.70, brought back to Detroit.

Mr. PECORA. On the same day \$250,000 was withdrawn from the Continental Illinois Bank & Trust Co. of Chicago.

Mr. LONGLEY. That is right.

Mr. PECORA. Is that the \$250,000 that was deposited in the First National Bank of Detroit that day?

Mr. LONGLEY. I could not tell where that went. You cannot tell that from these figures. You would have to follow the course of each one of these checks through the various channels. This really does not mean anything, so far as the course that money followed is concerned.

Mr. PECORA. Let us see. On that same date, January 18, 1933, \$481,731.70 was withdrawn from the Guardian National Bank of Commerce of Detroit: isn't that so?

Mr. LONGLEY. That is right. That probably checks up there very nicely.

Mr. PECORA. That is the aggregate of the two items of deposits, respectively, of \$400,000 deposited in the Union Trust Co. of Pittsburgh, and \$81,731.70 deposited in the First National Bank of Detroit.

Mr. LONGLEY. That is right.

Mr. PECORA. Would not that indicate the withdrawal of \$481,731.70 from the Guardian National Bank of Commerce in Detroit on that day?

Mr. LONGLEY. Probably; yes. I would say so.

Mr. PECORA. That amount was deposited, in the proportions I have stated, in the Union Trust Co. of Pittsburgh and the First National Bank of Detroit.

Mr. LONGLEY. Yes. I think that is right.

Mr. PECORA. Is it not also correct to infer that the \$250,000 withdrawn on January 18, 1933, from the Continental Illinois Bank & Trust Co. of Chicago was the \$250,000 deposited that same day in the First National Bank of Detroit?

Mr. LONGLEY. Yes; I think that is true.

Mr. PECORA. What occasioned that particular shifting of funds on that date?

Mr. LONGLEY. January 18?

Mr. PECORA. Yes.

Mr. LONGLEY. Oh, I do not know. It was in the course of this same process of readjusting those deposits. There were some new depositories, three of them, I think, and funds were adjusted from the old depositories to the new, and the A funds from the Guardian were adjusted throughout these depositories.

Senator COUZENS. Was it not done on the recommendation of Mr. Bodman, and in view of the letter he sent you?

Mr. LONGLEY. Yes. It was all done in furtherance of that, and his verbal request to do so.

Mr. PECORA. On January 19, 1933, \$200,000 was withdrawn from the First National Bank of Detroit, and a similar sum deposited in the Northern Trust Co., of Chicago.

Mr. LONGLEY. Yes.

Mr. PECORA. That was not done in pursuance of Mr. Bodman's suggestion made many months prior, was it?

Mr. LONGLEY. It was not.

Mr. PECORA. What was the reason for that transfer?

Mr. LONGLEY. Except that it was in the course of this same process. Why wasn't it? I don't understand.

Mr. PECORA. Because Mr. Bodman's suggestion was that moneys be withdrawn from banks affiliated with the Group with which the Union Guardian Trust Co. was affiliated. In this particular case, on January 19, 1933, \$200,000 was withdrawn from one bank not affiliated with the Group, and deposited in another bank not affiliated with the Group.

Mr. LONGLEY. Is there any other reason—

Mr. PECORA. Which other bank was outside the State of Michigan.

Mr. LONGLEY. That is quite true; but is there any other reason why the officer in charge of adjusting these deposits cannot keep his deposit in the First National Bank, where he wants it, and why he cannot, if it is high there, put some over in Chicago, Pittsburgh, or New York?

Mr. PECORA. I am trying to find out from you what the reason was for this so-called "readjustment"?

Mr. LONGLEY. I am only supposing that, because I did not handle the transfers, but I assume that the officer who was handling this did not want that deposit in the First National Bank to be a great deal greater than it had been. He had his own reasons for that. I suppose, but it was higher on February 11 than it had been.

Mr. PECORA. But, my dear man, only the day before your bank withdrew funds from one bank and deposited portions thereof, aggregating \$331,731.70, in this First National Bank of Detroit.

Mr. LONGLEY. That is true.

Mr. PECORA. And the following day withdrew \$200,000 from the First National Bank of Detroit and deposited it in a Chicago bank.

Mr. LONGLEY. That is true. That is perfectly all right. He was adjusting those accounts and bringing them to the level that he wanted them to be, I suppose. You would have to ask him in order to get exactly what he had in his mind, because I cannot guess that, but from my general knowledge of it, I think that is what he had in mind. I think the best picture you will have will be on that sheet of February 11, which shows where they finally wound up.

Mr. PECORA. On January 20, 1933, the sum of \$400,000 was withdrawn from the regular account, so called, which your Trust Co. had with the Continental Illinois Bank & Trust Co. of Chicago, and deposited in the Continental Illinois Bank & Trust Co. of Chicago in an account called "Account No. 2."

Mr. LONGLEY. Yes.

Mr. PECORA. Do you know the reason for that?

Mr. LONGLEY. No; I do not, except that it was in the course of this general readjustment of "A" fund accounts.

Mr. PECORA. What was the reason for maintaining a regular account and an account no. 2 in the Continental Illinois Bank & Trust Co.?

Mr. LONGLEY. I do not know. I do not know what that particular designation means.

Senator COUZENS. Is Mr. Maurice here?

Mr. LONGLEY. No. You did not subpenea him, did you?

Mr. PECORA. No. I thought you could answer these questions.

Mr. LONGLEY. Well, I will do my best.

Mr. PECORA. On January 26, 1933, \$350,000 was withdrawn from the Union Trust Co. of Pittsburgh and certificates of deposit purchased.

Mr. LONGLEY. Yes.

Mr. PECORA. You cannot give the reason for that?

Mr. LONGLEY. No; other than it was in the same course.

Mr. PECORA. On January 27, 1933, the sum of \$241,000 was withdrawn from the Chemical Bank & Trust Co. of New York, and a deposit of the same amount made that same day in the Guaranty Trust Co. of New York.

Mr. LONGLEY. That is true, apparently.

Mr. PECORA. On January 28, 1933, the sum of \$400,000 was withdrawn from the regular account, so-called, which your trust company had with the Bankers Trust Co., and deposited in account no. 2, in the same bank.

Mr. LONGLEY. Yes; that is apparently true. That is what memorandum shows.

Senator COUZENS. Do you know what account no. 2 was?

Mr. LONGLEY. I have not the slightest idea. It was the same designation, apparently, that was in the Continental Illinois Bank.

Senator COUZENS. You do not know what account no. 2 meant?

Mr. LONGLEY. No; I do not.

Mr. PECORA. On February 7, 1933, \$400,000 was withdrawn from the First National Bank of Detroit, and the following deposits were made on the same day: One of \$200,000 in the Bankers Trust Co. of New York, and one of \$200,000 in the Union Trust Co. of Pittsburgh, presumably the same funds.

Mr. LONGLEY. Presumably.

Mr. PECORA. On February 11, 1933, \$116,000 was withdrawn from the Continental Illinois Bank & Trust Co. of Chicago, and a corresponding sum deposited in the First National Bank of Detroit. Is that correct?

Mr. LONGLEY. Yes; apparently.

Mr. PECORA. On February 15, 1933, \$55,000 was withdrawn from the Chemical Bank & Trust Co. of New York. Do you know what disposition was made of those funds?

Mr. LONGLEY. No; I do not. You say February 15?

Mr. PECORA. Yes.

Senator COUZENS. The bank was closed at that time, was it not?

Mr. LONGLEY. Mr. Pecora, that amount was withdrawn by the bank from its account in the Chemical Bank & Trust Co. of New York.

Mr. LONGLEY. I do not know about it. I would suppose that the institution was closed up tight on that day.

Mr. PECORA. And on February 23, 1933, the following withdrawals were made from the banks which I will name, in the respective sums which I will also name: From the Central Hanover Bank & Trust Co. of New York, \$500,000; from the Bankers Trust Co. of New York, \$825,069.11; from the Union Trust Co. of Pittsburgh, \$250,000.

Mr. LONGLEY. Were those all "A" funds?

Mr. PECORA. I was going to ask you what those funds were.

Mr. LONGLEY. I think that I know.

Mr. PECORA. They are not marked here.

Mr. LONGLEY. Pardon me. Go ahead.

Mr. PECORA. From the Guaranty Trust Co. of New York, \$250,000; from the Continental Illinois National Bank & Trust Co. of Chicago, \$600,000; from the Farmers Deposit National Bank & Trust Co. of Pittsburgh, \$120,000; from the Northern Trust Co. of Chicago, \$200,000.

On the following day, February 24, 1933, the following withdrawals of funds were made: From the Chemical Bank & Trust Co. of New York, \$375,000; from the Union Trust Co. of Pittsburgh, \$350,000.

The aggregate amount of all these withdrawals commencing on February 15, 1933, and ending on February 24, 1933, was \$3,525,069.11. Do you know the reason for that?

Mr. LONGLEY. Yes.

Mr. PECORA. What?

Mr. LONGLEY. I think I know the reason. After the holiday things became very, very serious in Detroit, with all the banks

closed, and our trust depositors were having difficulty, and were in needs of funds, and the trust funds were withdrawn and put in cash.

Mr. PECORA. The "A" trust funds?

Mr. LONGLEY. The "A" trust funds were withdrawn, as far as they could be, and put in cash in the vault in the Trust Co. for the benefit of the trust depositors.

The CHAIRMAN. When were they paid out?

Mr. LONGLEY. Since then, as the people applied. I do not know just what the conservator has done. The first disbursement, as I remember, was 50 cents on the dollar of the total amount of their claim. That I think was raised, and I think now they have somewhere around 70 or 80 cents. There is still, of course, a large and substantial sum in the closed bank in Detroit, but actually that reserve protected those trust depositors to the extent of about 90 cents on the dollar.

The CHAIRMAN. The 50 percent was paid by whom?

Mr. LONGLEY. By the conservator or the Trust Co. I have forgotten whether it happened before the conservator took hold or not.

The CHAIRMAN. These funds were turned over to the conservator?

Mr. LONGLEY. Oh, yes. The conservator has possession of everything.

Senator COUZENS. When was the conservator appointed?

Mr. LONGLEY. I do not remember that date. I would say it was late in March.

Senator COUZENS. Then, between the time of these withdrawals, February 15 up to February 24, 1933, and the time the conservator was appointed, these funds were in your charge?

Mr. LONGLEY. That is right. I think there was something paid out, but I have forgotten what it was.

Senator COUZENS. Was that paid out on a percentage basis?

Mr. LONGLEY. I do not think so. I think that they were allowed up to a certain percentage.

Senator COUZENS. Do you know what the percentage was?

Mr. LONGLEY. No; I have forgotten.

Senator COUZENS. Was it not possible, between the dates of those withdrawals and the appointment of the conservator, for some of those trust funds to be withdrawn to the extent of 100 percent?

Mr. LONGLEY. No; there never would have been 100 percent for them, because of the sum still in the closed Detroit bank.

Senator COUZENS. I mean of that amount which was in your vaults, which you withdrew and put in your vaults.

Mr. LONGLEY. Yes.

Senator COUZENS. Were not some of those trust funds paid out to the extent of 100 percent?

Mr. LONGLEY. Not that I know of.

Senator COUZENS. You are quite sure of that, are you?

Mr. LONGLEY. My recollection is otherwise. I do not remember it. I do not think so.

Senator COUZENS. I am trying to get at whether there would be any rule or mandatory provision by any governmental agency to distribute those trust funds on a percentage basis at that time.

Mr. LONGLEY. No; there was no rule, but, as I remember, you will find a resolution of the board, or the executive committee, authorizing the officers to continue with the business, but using due care as to any possible preference that might arise—some such language as that.

Senator COUZENS. Can you give reference as to the date of that resolution?

Mr. LONGLEY. No; I do not have it. In fact, I have a very hazy recollection as to the resolution.

Senator COUZENS. As a matter of fact, you cannot testify that there were no 100-percent withdrawals of that trust fund between the time of the withdrawals from these depositories and the time of the appointment of the conservator?

Mr. LONGLEY. No; I cannot testify to it absolutely, but I think there were not.

The CHAIRMAN. You do know that there was some distribution made at that time?

Mr. LONGLEY. I think so; yes.

Mr. PECORA. Mr. Longley, I show you what purports to be a photostatic reproduction of an intragroup and interoffice memorandum, so styled, dated January 16, 1933, addressed to Mr. Frank Maurice by Mr. E. C. Harris, on the subject of "Recommendations re bank account set-up."

Will you please look at it and tell me if you recognize it to be a true and correct copy of such memorandum that passed from Mr. Harris to Mr. Maurice?

Mr. LONGLEY (after reading paper to near the end). Yes; this seems to be what you designate it as.

Mr. PECORA. Mr. Chairman, I offer it in evidence.

The CHAIRMAN. Let it be admitted.

(Mr. Longley continues reading the paper.)

Mr. PECORA. Mr. Longley, will you just give it to the committee reporter when you are through reading it?

Mr. LONGLEY. Yes. [And after a few moments longer, having completed the reading of the paper, the witness handed it to the committee reporter.]

(The Intra-group and Inter-Office memorandum, dated Jan. 16, 1933, from E. C. Harris to Frank Maurice, was marked "Committee Exhibit No. 86, Jan. 17, 1934", and will be found immediately following where read by Mr. Pecora.)

Mr. PECORA. The memorandum just received in evidence, and marked "Committee Exhibit No. 86" as of this date, being on the letterhead of the Guardian Detroit Union Group, Inc., and being styled an Intra-group and Inter-Office memorandum, reads as follows [reading]:

GUARDIAN DETROIT UNION GROUP
Incorporated

INTRA-GROUP AND INTER-OFFICE MEMORANDUM

Jan. 16, 1933.

To Mr. Frank Maurice 30

From Mr. E. C. Harris 251

Subject RECOMMENDATIONS RE-BANK ACCOUNT SET-UP

BANK ACCOUNTS—TRUST FUNDS CLASS A

New York

Central Hanover Bank & Trust Co.—On deposit \$500,000. Rate of interest on open account $\frac{1}{2}\%$. Inasmuch as this will be an inactive account, it is recommended that we purchase a Certificate of Deposit in that Institution for \$400,000 and leave \$100,000 in open account. Recommendation for the purchase of a Certificate of Deposit on this inactive money is to increase interest yield.

Chemical Bank & Trust Co.—On deposit \$706,124. Rate of interest $\frac{1}{2}\%$. Inasmuch as this is the account on which all our bond trading transactions are cleared, it seems advisable to make this our general active New York account. For this purpose, we should leave about \$100,000 and distribute the balance as follows:

Chemical Bank & Trust Co. Certificate of Deposit, \$400,000.

Transfer to the Guaranty Trust Co., N.Y., \$200,000, which will become our active Class A account in New York.

Manufacturers' Trust Co.—Suggest that this balance be left as it is until disposition has been made of some of the large balances on open account in other institutions. This account is presently paying us 1%.

Bankers Trust Co.—On deposit \$500,000. Interest rate $\frac{1}{2}\%$. It does not appear that we can leave as large a sum of money on deposit in open account at this small interest rate. Mr. Jackson informs us that they do not issue Certificates of Deposit. If this is the case, negotiations should be made for an arrangement which will allow us a better interest rate or transfer be effected to some other account.

Chicago

Continental Illinois National Bank & Trust Co.—Amount on deposit \$778,154. Inasmuch as it seems to be the intent to keep a large sum on deposit with the Continental Illinois Bank, it is suggested that \$500,000 of this amount be converted into one of their Certificates of Deposit with a larger interest return than we are now getting. The remaining \$278,000 will be sufficient monies to have on open account in Chicago.

First National Bank—This is a new depository and it looks as though there would be available for an initial deposit about \$200,000. This should be placed in the form of a Certificate of Deposit instead of an open account.

Northern Trust Co.—About \$200,000 will be available for opening an initial account in this Bank. This should be in the form of a Certificate of Deposit rather than an open account.

Pittsburgh

Farmers Deposit National Bank—We have purchased here \$227,681 in Certificates of Deposit for trust accounts and have on open account \$32,318, making a total of \$260,000. Open account pays $1\frac{1}{2}\%$ and Certificates of Deposit 2%. Suggest leaving as is.

Union Trust Company—Balance here has been \$50,498, on which we are getting $1\frac{1}{2}\%$. Suggest that we leave as is in open account.

Cleveland

National City Bank—We have purchased at this Institution \$125,501 in Certificates of Deposit leaving \$74,499 in open account. On open account we are to receive 2% and on Certificates of Deposit $2\frac{1}{2}\%$.

Detroit

Guardian National Bank of Commerce—Uptown Office. Our account here will be entirely wiped out with the opening of the two additional bank accounts in Chicago. On deposit \$411,722, rate of interest 1%.

First National Bank—On deposit—\$565,263, interest rate 1%. This will be continued as our active Class A Trust Fund Account in Detroit. It is advisable that we maintain a balance of about this amount.

Windsor

Canadian Bank of Commerce—On deposit \$19,145, interest rate 1½%. To be left as is inasmuch as it is necessary to the conduct of certain Trust Accounts.

Pontiac

First National Bank & Trust Co.—On deposit \$6,970, interest rate 1½%. To be left as is inasmuch as it is the active account for the Title Company in Pontiac.

Grosse Pointe

Grosse Pointe Savings Bank—On deposit \$17,207, interest rate 1%. To be left as is because it is the active operating account for the Grosse Pointe School.

SUNDRY CERTIFICATES OF DEPOSIT

This is made up of Certificates of Deposits as follows:

Detroit Trust Company-----	\$235,000
Michigan Industrial Bank-----	144,000

As soon as our Certificates of Deposit are cashed at the Michigan Industrial Bank this sum will be available for disposition elsewhere. Certificates of Deposit at the Detroit Trust Company can remain as is.

BANK ACCOUNTS GENERAL FUNDS

New York

J. P. Morgan Co.—On deposit \$3,557. This is a hangover from an old deposit relationship with the Guardian Trust Company. It is suggested that this account be closed out.

Guaranty Trust Co.—As before referred to, it is suggested that this be made our Class A General Account in New York and that \$200,000 be transferred from the Chemical Bank & Trust Company which will build this balance up to \$216,166. Interest rate is ½%.

National City Bank & Trust Co.—On deposit \$5,765, interest rate ½%. Unless there are good reasons to the contrary, it would seem that this account could be closed out.

Chicago

City National Bank & Trust Co.—On deposit \$5,227, interest rate ½%. This is our active B Account in Chicago. It seems that borrowing relationships at times in the past have been very satisfactory with this Institution. As soon as our B Funds become a little more plentiful, perhaps it would be well to build this balance up to possibly \$25,000.

Detroit

Guardian National Bank of Commerce—On deposit \$617,204, rate of interest 1%. This represents our general working account on Class B accounts in Detroit. Unless there are serious objections to the contrary, perhaps it should remain as is.

Mt. Clemens

Mt. Clemens Savings Bank—On deposit \$5,986. Inasmuch as this Bank is closed, it is recommended that the balance be transferred to Accounts Receivable.

Highland Park

Highland Park State Bank—Running balance in this account seldom exceeds \$2,500 inasmuch as it is only used for our pay roll account.

Monroe

Dansard State Bank—This Bank is closed. It is recommended that the balance of \$1,909 be transferred to Accounts Receivable.

Birmingham

First State Savings Bank—On deposit \$11,838. Bank Closed, recommend transfer of balance to Accounts Receivable.

Fowlerville

Commercial State Bank of Fowlerville—Balance \$4,500. Should be transferred to Accounts Receivable.

(Signed) E. C. Harris

ECH:EMB

CC—Messrs. C. Longley
J. Stalker.

Senator COUZENS. Mr. Longley, what was Mr. Stalker's position in the Trust Co.?

Mr. LONGLEY. What was the date of that memorandum, Mr. Pecora?

Mr. PECORA. The date is January 16, 1933.

Mr. LONGLEY. I think he had just become vice chairman, Senator Couzens. I don't know whether that memorandum was before or after the meeting, but at any rate in January he became vice chairman of the board.

The CHAIRMAN. And what was Mr. Harris' position?

Mr. LONGLEY. He was treasurer at that time. Doesn't the memorandum indicate that fact?

Mr. PECORA. Do you mean of the Union Guardian Trust Co.?

Mr. LONGLEY. Yes.

Senator COUZENS. And you were chairman at that time?

Mr. LONGLEY. No; I was president.

Senator COUZENS. Who was the president; was it Mr. Bodman?

Mr. LONGLEY. If it was after the January meeting he was the chairman, and I was the president. I think the meeting was held on the 13th of January.

Mr. PECORA. Now, Mr. Longley, I show you what purports to be a photostatic copy of another so-called "intra-group and inter-office memorandum", addressed to Mr. Frank J. Maurice, from Mr. E. C. Harris, dated January 12, 1933. Will you kindly look at it and tell me if you recognize it to be a true and correct copy of such memorandum passing from Mr. Harris to Mr. Maurice on or about that date.

Mr. LONGLEY (after reading the memorandum). It seems to be.

Mr. PECORA. Mr. Chairman, I offer it in evidence.

The CHAIRMAN. Let it be admitted.

(The memorandum referred to, dated Jan. 12, 1933, to Mr. Frank J. Maurice from Mr. E. C. Harris, was marked "Committee Exhibit No. 87, Jan. 17, 1934", and will be found immediately following where read by Mr. Pecora.)

Mr. LONGLEY. Mr. Pecora, might I see that other paper?

Mr. PECORA. Do you mean the one already received in evidence?

Mr. LONGLEY. Yes.

Mr. PECORA. Here it is.

Mr. LONGLEY. Mr. Pecora, I cannot make out this date of filing on this particular paper.

Mr. PECORA. Which exhibit do you now refer to?

Mr. LONGLEY. To committee exhibit no. 86.

Mr. PECORA. Do you mean the one I have just read?

Mr. LONGLEY. Yes. If possible I should like to know whether this is [and then holding up paper to the light]—It is April 19, I believe.

Mr. PECORA. Of 1933?

Mr. LONGLEY. Yes. I am trying to bring out that probably, among other papers, this letter that you spoke of on yesterday was filed with a great many other papers of mine when I left the trust company.

Mr. PECORA. The letter you now refer to is the one that—

Mr. LONGLEY. I am just wondering whether that paper was taken from my copy. That seems to be about that date. You will find, Mr. Pecora, if you examine those files, that a large number of my letters were filed on one day in April of 1933.

Mr. PECORA. Which would indicate, I take it, that as you received those letters and reports, addressed to you, you kept them for a while and that then, on April 16, or some date in April of 1933, they were all transferred to the office files of the trust company.

Mr. LONGLEY. No. When these memoranda came up to me, when these copies of communications came to me, my secretary filed a great many of them in my own private file in my office, without sending them to the general file. And then, when I left the trust company, I cleaned out that file, and everything belonging to the trust company went on that date, or about that date, to their files.

Senator COUZENS. Mr. Pecora, what was the last thing that you put in evidence?

Mr. PECORA. This intragroup and interoffice memorandum, dated January 12, 1933, marked "Committee Exhibit No. 87" as of this date, and which appears on the letterhead of the Guardian Detroit Union Group, Inc. It reads as follows [reading]:

GUARDIAN DETROIT UNION GROUP, INCORPORATED

INTRA-GROUP AND INTER-OFFICE MEMORANDUM

To Mr. Frank J. Maurice 30
From Mr. E. C. Harris 251

Date Jan. 12, 1933

Accomplishments in the transfer of Class A funds are reported for today as follows:

FARMERS DEPOSIT NATIONAL BANK OF PITTSBURGH

Account opened:

Certificates of Deposit (Trust Accts.) purchased-----	\$227,681.82
Open account-----	32,318.18
Total-----	\$260,000.00

CHEMICAL BANK & TRUST COMPANY—NEW YORK

This deposit raised to \$500,000 by a transfer of funds today in the amount of \$230,000.

And right opposite that last sentence, which sentence appears in typewriting, there also appears the following handwritten notation:

Are these A Fund earmarked?

And I continue reading the exhibit:

BANKERS TRUST COMPANY—NEW YORK

Deposited \$500,000.

NATIONAL CITY BANK OF CLEVELAND

Certificates of Deposit purchased (Trust Accts.)	\$125, 501. 00
Open account	74, 499. 00
Total	\$200, 000. 00

THE UNION TRUST CO. OF PITTSBURGH

Account increased to \$50,000 by transfer of \$43,000.

All of the above resulted in a withdrawal from the Guardian National Bank of Commerce, uptown office, of \$1,233,000; certificates of deposit (trust accts.) in Guardian National Bank of Commerce in the amount of \$363,082.82 were cashed and placed in our general account in the Guardian National Bank of Commerce. Transfer of these funds will be made tomorrow morning to class A account in the uptown office from which further transfers of funds can be made as decided.

(Signed) E. C. HARRIS.

ECH:EMB.

Mr. LONGLEY. May I see that paper again for a minute, Mr. Pecora?

Mr. PECORA. Yes. Here it is.

Mr. LONGLEY (after looking at the paper again). I thank you.

Mr. PECORA. I show you what purports to be a photostatic copy of another so-called "intragroup and interoffice memorandum", addressed to Mr. F. J. Maurice by Mr. E. C. Harris, dated January 24, 1933. Will you look at it and tell me if you recognize it to be a true and correct copy of such memorandum?

Mr. LONGLEY (after reading the paper). It seems to be, Mr. Pecora.

Mr. PECORA. Mr. Chairman, I offer it in evidence.

The CHAIRMAN. Let it be admitted.

(The photostat of Intra-group and Inter-Office memorandum, dated Jan. 24, 1933, from E. C. Harris to F. J. Maurice, was marked "Committee Exhibit No. 88, Jan. 17, 1934", and will be found immediately following where read by Mr. Pecora.)

Mr. PECORA. The exhibit just received in evidence as no. 88 of this date, being on the letterhead of the Guardian Detroit Union Group, Inc., reads as follows [reading]:

GUARDIAN DETROIT UNION GROUP INCORPORATED

INTRA-GROUP AND INTER-OFFICE MEMORANDUM

To Mr. F. J. Maurice 30
From Mr. E. C. Harris 251

Dated January 24, 1933

NEW YORK ACCOUNTS AS OF THE OPENING OF BUSINESS THIS MORNING WERE AS FOLLOWS:

Class A Accounts:

Guaranty Trust Co.—\$9,000. This has been our active general account in New York and there is presently on deposit only \$9,000. Mr. Badger made arrangements here through Mr. Edward H. Rawls, Vice President, to purchase Certificates of Deposit at one-half of one per cent on time and one-quarter of one per cent on demand basis. This Bank should, accordingly, be made a Class A Account Bank and the balance should be built up to \$250,000. This will be

considered an active account and will necessarily carry the open demand rate balance of one-quarter of one per cent. It should be designated as "Trust Funds Class A" and to presently build up the balance here, it is suggested that we be allowed to transfer from the Chemical Bank & Trust Co.

Chemical Bank & Trust Co., N.Y.—\$641,000. Suggest the transfer of \$250,000 to Guaranty Trust Co. as above. We will then open an account to be used as our regular Class B General Fund Account in New York in the amount of \$100,000. This will be done by a transfer of money from Detroit. This will leave \$390,000 to which we will add \$10,000 which can be left in a dormant account to be known as 'Trust Funds Class A' at the highest rate of interest obtainable. It is desirable that this \$400,000 be left in dormant account as the \$100,000 General Account will be quite active and our balance in it will be comparatively small and would not justify the service to be performed by the Bank otherwise.

Central Hanover Bank & Trust Co., N.Y.—\$500,000. This can be left as a dormant deposit at the best rate obtainable.

Manufacturers' Trust Co., N.Y.—\$8,000. If this balance is built up it will necessarily have to be done by a transfer of funds from either the Central Hanover Bank & Trust Co. or the Bankers Trust Co.

"Bankers Trust Co., N.Y.—\$500,000. Inasmuch as Mr. Badger made arrangements through Mr. B. Thompkins, vice president, to purchase Certificates of Deposit for trust accounts here, this money should be distributed in two accounts both of which will be Trust Funds Class A. Number one account should be for \$100,000 to take care of our Certificate of Deposit traffic and number two account may be for \$400,000 (unless there is a draw down to build up Manufacturers' Trust which can be left in dormant account at the best rate obtainable).

J. P. Morgan & Co., N.Y.—\$3,000. To be left as is.

National City Bank, N.Y.—\$5,000. To remain as is.

ECH:EMB

(Signed) E. C. HARRIS.

The CHAIRMAN. Mr. Longley, there is where you get your reference to the "No. 1 account", and the "No. 2 account."

Mr. PECORA. No, that is the general account and account no. 2. Isn't that so, Mr. Longley?

Mr. LONGLEY. Yes.

Senator COUZENS. And apparently the No. 2 account was a trust account.

Mr. LONGLEY. I would think so from that letter.

The CHAIRMAN. It says a transfer of A funds.

Mr. PECORA. Mr. Longley, does it seem to you that the three exhibits last offered in evidence, respectively committee exhibits 86, 87, and 88, and consisting of these intra-group and inter-office memoranda, are explanation of the reasons for some of the transfers of funds regarding which I questioned you this morning?

Mr. LONGLEY. Yes, I think so.

Mr. PECORA. Now, Mr. Longley, I show you what purports to be a photostatic copy of a memorandum addressed to Mr. Henry E. Bodman by Mr. E. C. Harris, dated January 17, 1933, entitled "Present Distribution of Funds of Union Guardian Trust Co. as of January 16, 1933."

Will you look at it and tell me if you recognize it as being a true and correct copy of such memorandum or communication.

Mr. LONGLEY (after reading the paper). It seems to be, Mr. Pecora.

Mr. PECORA. Mr. Chairman, I offer it in evidence.

Senator COUZENS. Let it be admitted.

(The photostat of paper dated Jan. 17, 1933, to Henry E. Bodman from E. C. Harris, was marked "Committee Exhibit No. 89, Jan.

17, 1934," and appears immediately following where read by Mr. Pecora.)

Mr. LONGLEY. I was looking for the date on that paper but did not find it.

Mr. PECORA. The paper just received in evidence as committee exhibit no. 89, reads as follows [reading]:

Mr. HENRY E. BODMAN.

Mr. E. C. HARRIS.

PRESENT DISTRIBUTION OF FUNDS OF UNION GUARDIAN TRUST COMPANY (as of 1/16/33)

TRUST FUNDS, class A:

New York:

Central Hanover Bk. & Tr. Co.	\$500,000.00
Chemical Bk. & Tr. Co.	735,133.17
Manufacturers' Trust Co.	8,273.59
Bankers Trust Co.	500,000.00

Chicago: Continental Ill. Nat. Bk. & Tr. Co. 778,755.03

Pittsburgh:

Farmers Deposit National Bk.	260,000.00
Union Trust Co.	50,498.22

Cleveland: The Nat'l City Bk. of Cleveland 200,000.00

Detroit:

Gdn. Nat'l. Bk. of Com. (uptown). (This acct. will be closed out on Jan. 17, 1933, by placing \$200,000 each in the Northern Tru. Co. and First National Bank, Chicago. (Both new depositaries)	480,739.66
First National Bk.	527,343.31

Windsor: Canadian Bk. of Commerce 19,733.04

Pontiac: First Nat'l Bk. & Tr. Co. 7,088.34

Grosse Pointe:

Grosse Pointe Savings Bk.	17,468.30
Special C/D's & Accts. (See detail attached)	596,242.58
Sundry Certificates of Dep. (See detail attached)	379,000.00

Total----- \$5,060,275.24

GENERAL FUNDS, class B:

New York:

J. P. Morgan Co.	3,557.42
Guaranty Trust Co.	15,656.55
National City Bank	5,765.06

Chicago: City Natl. Bk. & Tr. Co. 5,211.35

Detroit: Guardian Nat'l. Bk. of Com. 808,950.59

Mt. Clemens: Mt. Clemens Savings Bk. 5,986.70

Highland Park: Highland Park St. Bk. Spec a/c. 2,500.00

Monroe: Dansard State Bk. 1,909.49

Birmingham:

First State Savings Bank	11,838.62
Sundry Banks and Bankers	155,799.20
Sundry Certificates of Dep. (See detail attached)	24,500.00

Total----- 1,041,674.98

(Signed) E. C. H.
E. C. HARRIS.

ECH:EMB

Then there are attached two additional sheets itemizing some of the details, that is, with regard to some of the items that I have just read [reading]:

Mr. Henry E. Bodman,
Mr. E. C. Harris.

Jan. 17, 1933.

PRESENT DISTRIBUTION OF FUNDS OF UNION GUARDIAN TRUST CO.
(as of 1/16/33) Sheet #22

Detail—Special C/D's & Accts. Class A Units of

Group:

Guardian National Bk. of Com.	\$289,907.30
Michigan Industrial Bk.	18,000.00
First National Tr. & Savings Bk., Port Huron	2,336.45
<hr/>	
Total	\$310,243.75

All of the above funds will be out of the Guardian National Bk. of Com. by the close of business today with the following exceptions:

M. B. Mills, Savings Acct., \$43,490.10. This is a savings account which it is desirable not to close out until the end of the interest period on account of loss of interest. At that time it will be placed in the form of a Certificate of Deposit.

Troy Syndicate, Commercial Acct., \$398.00. There are several reasons why this account should not be disturbed at this time due to the unsettled relations among syndicate members.

John Hancock Life Insurance Co., \$78.89. Under Trustees Agreement with this Insurance Company, the Guardian National Bank of Commerce was specifically designated as Depositary.

Others:

Detroit:

Commonwealth Commercial St. Bk.	\$1,100.00
Detroit Savings Bk.	783.40
Detroit Trust Co.	220,213.75
First National Bk.	37,105.49
Northwestern St. Bk. (Closed)	207.89
United Savings Bk.	3,371.37
Imlay City: Peoples St. Bk. (Closed)	331.38
Northville: Lapham St. Savings Bk. (Closed)	4,364.50
Pontiac: First Nat'l Bk. & Tr. Co.	121.02
St. Clair: Commercial & Savings Bk.	2.57
Walkerville: Royal Bk. of Can.	2,480.38
Windsor: Canadian Bk. of Com.	9,855.36
Imperial Bk. of Can.	6,061.72
<hr/>	
Total	285,998.83

Grand total ----- 598,242.58

Detail—Sundry Certificates of Deposit Class A:

Michigan Industrial Bank	144,000.00
Detroit Trust Company	235,000.00
<hr/>	
	379,000.00

Detail—Sundry Certificates of Deposit Class B:

Fowlerville: Commercial State Bank (Closed)	4,500.00
Marquette: Commercial St. Bk.	15,000.00
Pigeon: State Bk. of Pigeon	5,000.00
<hr/>	
	24,500.00

ECH:EMB

(Signed) E. C. H.
E. C. HARRIS.

Mr. PECORA. Now, Mr. Longley, I want to show you what purports to be a photostatic copy of a statement or report found among the files of the Union Guardian Trust Co. entitled "Union Guardian Trust Co., withdrawals and deposits, January 1, 1933, to January 28, 1933."

Will you look at it and tell me if you recognize it as being a true and correct copy of such report or statement contained among the files and records of the Trust Co.?

Mr. LONGLEY (after reading the paper). I never saw it before, Mr. Pecora, but I wouldn't—just a minute?

Mr. PECORA. You would not question the authenticity of it, would you?

Mr. LONGLEY. I would not think so. I think probably it is correct. But I do not know anything about it.

Mr. PECORA. At any rate, you do not question the authenticity of it, do you?

Mr. LONGLEY. No; not if you got it from the files of the Trust Co.

Mr. PECORA. Mr. Chairman, I offer it in evidence.

Senator COUZENS. It will be admitted.

(The statement entitled "Union Guardian Trust Co., withdrawals and deposits, Jan. 1, 1933, to Jan. 28, 1933", was received in evidence and marked "Committee Exhibit No. 90, Jan. 17, 1934", and will be found immediately following where read by Mr. Pecora.)

Mr. PECORA. The paper just received in evidence and marked "Committee Exhibit No. 90" as of this date, reads as follows—

Mr. LONGLEY (interposing). Mr. Pecora, can you tell me where that paper came from? If so, that might refresh my recollection somewhat.

Mr. PECORA. From among the records and files of the Union Guardian Trust Co.

Mr. LONGLEY. You do not know from what particular file, I take it? I notice it is a copy coming, apparently, from a book of some sort.

Mr. PECORA. I do not see anything on the document which would identify the particular file in which it had been placed.

Mr. LONGLEY. All right.

Mr. PECORA. Now, this exhibit reads as follows [reading]:

UNION GUARDIAN TRUST COMPANY

Withdrawals and Deposits January 1, 1933 to January 28, 1933

Certificates of deposit:

Balance December 31, 1932-----	\$17,576,090.45
Balance January 28, 1933-----	16,219,292.83
Decrease-----	1,356,797.62

Due to withdrawals:

B. H. Scranton-----	20,000.00
Sidney D. Waldron-----	10,000.00
U. G. T. Co. Agt. Geo. W. Trendle-----	49,500.00

Mr. LONGLEY (interposing). That means Union Guardian Trust Co.

Mr. PECORA. How was that?

Mr. LONGLEY. I say the initials U. G. T. Co. mean Union Guardian Trust Co.

Senator COUZENS. And about Mr. Trendle, was he one of your directors?

Mr. LONGLEY. Yes, sir.

Mr. PECORA. That is, Mr. Trendle was one of your Trust Co. directors?

Mr. LONGLEY. Yes, sir.

Mr. PECORA. I continue reading:

Janet Jones Caulk	\$15,000.00
George W. Trendle	10,000.00
Conductors Protective Assurance Co.	10,000.00
Detroit Trust Co., Ex. C. C. Thompson	10,000.00
Edsel B. Ford	104,459.00
Estate of William H. Murphy	30,000.00
Guardian National Bank of Commerce	700,000.00
Continental Bank, city	11,307.00
F. E. Martin	25,000.00

Senator COUZENS. That should be P. E. Martin.

Mr. LONGLEY. No; I think that is F. E. Martin.

Senator COUZENS. On my memorandum it is shown as P. E. Martin.

Mr. LONGLEY. Well, I do not believe it is. I did not know that he had any funds in there. I wouldn't swear to that, however.

Senator COUZENS. It shows P. E. Martin on my memorandum.

Mr. LONGLEY. All right.

Mr. PECORA. And where we have the initials "U. G. T. Co." that refers to the Union Guardian Trust Co., as I understand it.

Mr. LONGLEY. Yes, sir.

Mr. PECORA. I continue reading:

U. G. T. Co., Agt. W. S. Knudsen	\$40,300.00
Crowley Milner Company	50,000.00
General Foods Corporation	50,000.00
Campbell Ewald Company	170,000.00
H. P. Cristy	10,000.00
Pacific Steel Boiler Corp	180,000.00
Allied Jewish Campaign	10,000.00
Detroit Auto Club	10,000.00
Sundry Items	61,231.62

Total ----- \$1,576,797.62

Less deposits:

Booth Newspapers' Ins.	75,000.00
Detroit Trust Co., Rec. for Minn. Atlantic Trans. Co.	100,000.00
Cranbrook Foundation	35,000.00
Detroit Trust Co., Executor W. O. Russell	10,000.00

Total ----- 220,000.00

Decrease ----- 1,356,797.62

Trust funds, class B:

Balance Dec. 31, 1932	9,031,717.92
Balance Jan. 28, 1933	7,613,099.20

Decrease ----- 1,418,618.72

Due to withdrawals:

City of Detroit	1,454,646.00
Bank of Hamtramck	60,000.00

Total ----- 1,514,646.00

Less deposits:

Times Pub. Co.	43,344.00
Hemlock State Bank	22,883.00
Sundry items	29,800.28

96,027.28

Decrease ----- 1,418,618.72

Mr. PECORA. Now, among the names that I have read from this committee exhibit no. 90, do you recognize the names of any officers or directors of the Trust Co.?

Mr. LONGLEY. Yes. There is Mr. Trendle's name, and Mr. Ford's name.

Mr. PECORA. Mr. Trendle and Mr. Ford?

Mr. LONGLEY. Let me see [reaching out for the exhibit]. Possibly there are some others. I did not examine it for that purpose.

Mr. PECORA. Look it over and see if there are any others.

Mr. LONGLEY [after looking the paper over]. No; I think that is all.

Mr. PECORA. Just Mr. Trendle and Mr. Ford.

Mr. LONGLEY. Mr. Trendle and Mr. Ford; yes.

Mr. PECORA. Now, do you know whether or not any corporate depositors listed among the withdrawals on this exhibit are corporations that had among their officers and directors any officers and directors of the Union Guardian Trust Co.?

Mr. LONGLEY. I don't think so. But I will look at the exhibit again.

Mr. PECORA. Here it is. Please look at it.

Senator COUZENS. Was Ewald a director of the Trust Co.?

Mr. LONGLEY. I will have to check that exhibit over and see.

Senator COUZENS. I wish you would do so.

Mr. LONGLEY (after looking again at the exhibit). No. I think he was just on the group and on the bank. He does not seem to be on this list that I have here among my papers, not on this list at all.

Mr. PECORA. Are you now referring to Mr. Ewald?

Mr. LONGLEY. Yes, sir.

Mr. PECORA. Was he a director of the Guardian Detroit Union Group, Inc.?

Mr. LONGLEY. I think he was a director of the group, and was on the bank. But he is not a director shown here on my paper.

Mr. PECORA. Are there any other depositors whose names are listed on that exhibit as having made withdrawals, who are officers or directors of the group; I mean as of that time?

Mr. LONGLEY. No, sir; I don't think so. Here is the estate of William H. Murphy. I don't know whether Dr. Murphy was connected with that matter or not. Do you, Senator Couzens?

Senator COUZENS. Dr. Murphy had a part of that estate, didn't he?

Mr. LONGLEY. Well, I don't know about that. I say, I don't know just what the estate of William H. Murphy is. That is the only possibility there.

Senator COUZENS. Why was \$700,000 taken out by the Guardian National Bank of Commerce at that time?

Mr. LONGLEY. Well, they just withdrew it to cut down their deposit in the Trust Co., and whether because they needed the money I don't know.

Senator COUZENS. Of course, they were getting more liquid all the time. Was that withdrawn to make them more liquid?

Mr. LONGLEY. Well, I don't know. That had been there for quite a while, that account.

Senator COUZENS. It is a very substantial withdrawal from one of your associates at a time when you were in great distress.

Mr. LONGLEY. Well, I don't remember any particular reason that was given.

Mr. PECORA. Was any inquiry made by you to ascertain the reason for this heavy withdrawal at that particular time?

Mr. LONGLEY. No; I didn't make any inquiry. There wasn't much discussion about it so far as I know.

Senator COUZENS. Was there any discussion about it?

Mr. LONGLEY. I suppose it was in connection with the adjustment of deposit accounts, the withdrawal of large amounts from the Guardian. No; I don't remember any particular discussion about it. But I would assume that was it, that they withdrew that money when they were withdrawing such large amounts from their deposits.

Senator COUZENS. May I draw your attention to a question propounded by Mr. Pecora on yesterday, which appears on page 1279 of the stenographic transcript of testimony, in which Mr. Pecora asked—

Mr. LONGLEY (interposing). Propounded to me?

Senator COUZENS. Propounded to you; yes. [Reading:]

When the board of the R.F.C. expressed its view to you gentlemen that the stockholders, large depositors, and others interested in those banks of the Guardian Detroit Group should be consulted by the management of the banks concerned, and an effort made to formulate a program designed to meet the problems presented and to strengthen the position of the banks, what, if anything, do you recall was done by the board and the officers of the Guardian Detroit Union Group, Inc.

Then you made a somewhat lengthy, or perhaps it is a brief, explanation of what was done, which appears on page 1280. Now, what I want to ask you is this: When this condition existed, and you were advised by the Reconstruction Finance Corporation to consult the large depositors and stockholders, one of your large depositors deliberately withdrew \$700,000 at the very time you were pleading for loans from the R.F.C.—

Mr. LONGLEY. Yes. But we were just withdrawing from them a million and some two hundred thousand dollars, I believe.

Mr. PECORA. Well, those were class A trust funds.

Mr. LONGLEY. That is true, but we were taking it out of their deposits.

Senator COUZENS. I do not understand even now what you mean by that.

Mr. LONGLEY. Well, we were withdrawing from the Guardian National Bank of Commerce something like—have you that total amount, Mr. Pecora? It was a million two hundred and something.

Senator COUZENS. Withdrawing that money for what purpose?

Mr. LONGLEY. For this readjustment of deposits of the A funds.

Senator COUZENS. But when you went before the Reconstruction Finance Corporation in June or July of 1932, you were then stating that the Union Guardian Trust Co. was in very bad condition, in a frozen condition, and that you were afraid if nothing happened to help the situation or, at least, if anything happened to the Trust Co., the whole group of units would be affected. Is that correct?

Mr. LONGLEY. Substantially so; yes.

Senator COUZENS. And then following that, your Guardian National Bank of Commerce withdrew \$700,000 from your deposits and further embarrassed the condition of the Trust Co.

Mr. LONGLEY. No. At the same time we were withdrawing from them a million two hundred thousand dollars, or something of that sort, of A funds.

Mr. PECORA. Yes; but you transferred those withdrawals to other banks. You did not keep them in the Union Guardian Trust Co.

Mr. LONGLEY. That is true enough. But we withdrew from the bank, and the bank withdrew from us.

Senator COUZENS. Yes; but you did not keep those funds in the Trust Co. There was a diminution in the aggregate of deposits of the Trust Co. through this transaction, and that is what I am trying to get explained, because these photostatic copies specifically show a diminution; and there was an even greater diminution in the deposits of the Union Guardian Trust Co. after this transaction than there was before, a lesser amount remaining. I find no evidence in your testimony, Mr. Longley, given on yesterday, to show that there was any attempt to take that matter up with the stockholders or large depositors; I mean the suggestion made by the directors of the Reconstruction Finance Corporation when you were applying to them for a loan.

Mr. LONGLEY. Well, the suggestion to me was not to take it up with any other than the Ford Motor Co.

Senator COUZENS. Well, that is not according to the record as it was read by Mr. Pecora on yesterday.

Mr. LONGLEY. Yes, but—

Senator COUZENS (interposing). Nor is it in accordance with the questions propounded.

Mr. LONGLEY. Well, that is as I recall, what happened. As I remember it, I was asked why the Ford Motor Co. should not take care of this. I do not remember anybody else being mentioned in the way of depositors.

Senator COUZENS. And I am not saying there was any other one mentioned, but according to the testimony read from the R.F.C. record it appeared in the plural.

Mr. LONGLEY. That is right.

Senator COUZENS. It stated "stockholders and large depositors", and there was no specific reference made to any particular company.

Mr. LONGLEY. That is right.

Senator COUZENS. So there would be no limitation upon the suggestion made by the R.F.C. that large depositors and stockholders should be consulted so as to put the Trust Co. in a sound condition.

Mr. LONGLEY. Well, I do not know myself whether those minutes are correct or not. As I remember what happened, they are not correct. Possibly they put the word "depositor" in the plural. But the only thing that stuck in my mind was the word "depositor" in the singular, and that happened over and over again.

Senator COUZENS. Well, was there any attempt made between June of 1932 and the time of closing in February of 1933 to reorganize the trust company or to adjust its financial condition so that it might be relieved from its duties as a banker and remain only as a fiduciary institution?

Mr. LONGLEY. No; not quite that. The Ford Motor Co., however, gave its aid at the end of the year 1932. And we were still hoping that in some way we could work out this deposit liability through a loan from the R.F.C.

Senator COUZENS. As I understand it, there was no particular attempt made from the time of the large loan you got in July until

January of 1933 to work out any plan of relieving the trust company of its deposit liability.

Mr. LONGLEY. Yes; there was the plan I spoke of on yesterday. You will find it somewhere in the records of the trust company, a very careful budget plan, to cut down expenses, to cut down interest, to build up income, whereby we could try to balance the budget and work the thing out.

Senator COUZENS. Yes; that may be in the minutes, but that does not give a record of any consultation that you had with depositors or stockholders.

Mr. LONGLEY. I had plenty of conversation with one large depositor.

Senator COUZENS. Did you have any with the stockholders of the Union Group?

Mr. LONGLEY. I was continually talking to stockholders of the trust company, which was the Guardian Detroit Union Group. We were very much together, all of us. They, quite naturally, would be concerned. We spent hours and hours and Sundays and did everything else we could trying to work it out.

Mr. PECORA. Mr. Longley, following up the line of examination by Senator Couzens, let me specifically recall to your attention at this moment what took place before the board of directors of the Reconstruction Finance Corporation at its meeting on July 5, 1932, which was attended by you, Mr. Bodman, Mr. Kanzler, Mr. Lord, and Mr. Walsh, as officers and directors not only of the Guardian Detroit Union Group, but also of some of the unit banks of the Group.

Mr. LONGLEY. That is right.

Mr. PECORA. I will read again to you from the—

Mr. LONGLEY (interposing). Wait a minute. Did you say some of the unit banks?

Mr. PECORA. Well, the Guardian National Bank of Commerce was represented.

Mr. LONGLEY. I see. Well, I think they were Group and Trust Co. representatives, perhaps. Perhaps others were not interested.

Mr. PECORA. I will read again to you a portion of the excerpt from the minutes of the regular meeting of the board of directors of the Reconstruction Finance Corporation held on July 5, 1932, which I read on yesterday, and which is as follows:

Mr. Bodman explained the problems confronting the 21 banks in Detroit and vicinity controlled by the Guardian Group, and stressed the seriousness of the situation. The board informed the bank officers present of its action in authorizing an emergency loan to the Union Guardian Trust Co. in the amount of \$8,733,000, which it understood would relieve the situation temporarily, and indicated that it would consider making additional advances after the special committee had completed an examination of the collateral. The board, however—

And that means the board of the Reconstruction Finance Corporation—

expressed the view that the stockholders, large depositors, and others interested in these institutions should be consulted by the management of the banks concerned and an effort made to formulate a program designed to meet the problems presented and to strengthen the position of the banks.

Mr. LONGLEY. Well, now, there is one place, Mr. Pecora, that I take issue on the correctness of those minutes. I do not believe we talked about banks at all. At that meeting it was a matter of the trust company.

Mr. PECORA. Well, Mr. Bodman said—

Mr. LONGLEY (interposing). No, I don't think Mr. Bodman talked about banks. He can tell you better, but I don't remember about that. We had just one thing in our minds.

Mr. PECORA. You are not suggesting, are you, that these minutes are incorrect?

Mr. LONGLEY. I am not suggesting that, no. But it is not the way I remember it.

Mr. PECORA. Is your memory or recollection of this discussion with the directors of the R.F.C. clear?

Mr. LONGLEY. In a general way, yes.

Mr. PECORA. Now, isn't it a fact—

Mr. LONGLEY (interposing). That is why in this particular connection it is clear: We were talking about the trust company. I do not believe any amount of discussion came into that connection with the condition of the banks. Now, it might have occurred and I might not have been attentive to it, but as I remember the situation we did not talk about the condition of the banks in that particular meeting.

Mr. PECORA. What did you talk about?

Mr. LONGLEY. We talked about the trust company, and we talked about the consequences.

Mr. PECORA. What consequences were referred to by anyone?

Mr. LONGLEY. What would occur if it was impossible to get liquidity in that bank, and be able to keep that institution open.

Mr. PECORA. Well, will you tell us more in detail what was said about that?

Mr. LONGLEY. Well, that was it generally.

Mr. PECORA. What was it?

Mr. LONGLEY. We emphasized lack of liquidity.

Mr. PECORA. Of what bank?

Mr. LONGLEY. The Union Guardian Trust Co.

Mr. PECORA. And what consequences were specifically stated would ensue in event the condition of the Union Guardian Trust Co. were not improved?

Mr. LONGLEY. That you would have a reaction on every group bank, and every bank in Michigan in fact.

Mr. PECORA. Isn't that practically what these minutes say?

Mr. LONGLEY. No. You speak in those minutes, or whoever made them speaks of the condition of the banks, other than the trust company. And I don't think that was done.

Mr. PECORA. Let me read:

Mr. Bodman explained the problems confronting the 21 banks in Detroit * * * and expressed the seriousness of the situation.

The situation was serious, was it not?

Mr. LONGLEY. Yes, indeed.

Mr. PECORA. And the seriousness of the situation extended to all of the unit banks of the group, did it not?

Mr. LONGLEY. Yes; but that does not cover the discussion of the condition of those other units at all. That is what I am getting at.

Senator COUZENS. I believe I see the distinction.

Mr. PECORA. There may not have been any detailed discussion in regard to the condition of any other unit bank than the Union Guardian Trust Co. on this occasion; is that what you mean?

Mr. LONGLEY. Yes.

Mr. PECORA. But the seriousness of the situation with respect to the Union Guardian Trust Co. was discussed in detail, was it not?

Mr. LONGLEY. Right.

Mr. PECORA. And the discussion included the expression of the view or the fear that unless relief were given to the Union Guardian Trust Co. it would have to suspend?

Mr. LONGLEY. Yes; it was possible that that might eventuate.

Mr. PECORA. Was not the view further expressed at this meeting with the directors of the R.F.C. that, in the event of the suspension of the Union Guardian Trust Co., the other unit banks of the Guardian Detroit Union Group would be so affected by such suspension that they, too, would have to suspend?

Mr. LONGLEY. I do not know how far you can go on that. The reaction would have been so serious that that might occur; yes. I think we can say that. We did not know just what the consequences might be, to tell the truth.

Mr. PECORA. Did not that discussion lead to the expression of the view or opinion by the board of the R.F.C. that the stockholders, large depositors, and others interested in these various bank units of the group, should be consulted by the management of the banks concerned and an effort made to formulate a program designed to meet the problems presented, to strengthen the position of the banks?

Mr. LONGLEY. Well, this is what sticks in my mind. We were asked why Mr. Ford should not take care of this. I think he was the depositor that was mentioned, as far as I know. I do not remember anything further than that. There might have been.

Senator COUZENS. Was any reference made to stockholders?

Mr. LONGLEY. I do not recall that. It is quite possible.

Mr. PECORA. What, if anything, was done after the board of the R.F.C. expressed those views, by you and the others who met with the R.F.C. on July 5 to carry out the suggestion made by the R.F.C. that day?

Mr. LONGLEY. I talked with the Ford people about this thing—not in furtherance of that, but in connection with the trust company, and a loan was made in furtherance of this application, but not of the amount we were applying for.

Mr. PECORA. You were then applying for a \$28,000,000 loan?

Mr. LONGLEY. Yes; enough to take care of deposit liability, and an amount was finally given us by the R.F.C. with the thought that it would be sufficient, and we proceeded to do our best to balance the budget and carry it out with that loan.

Senator COUZENS. Of course a mere balancing of the budget would not have put you in position to pay out your deposit liability, would it?

Mr. LONGLEY. Why not, if your assets are ultimately good?

Senator COUZENS. Yes; but they were frozen, you said.

Mr. LONGLEY. Yes; they were frozen. It was lack of liquidity and we could not get liquidation fast enough to take care of the depositors.

Senator COUZENS. So if you had closed up entirely and wiped out all your budgetary expense, you could not possibly have paid out your deposit liability?

Mr. LONGLEY. I do not know. That is what we were trying to work out, exactly.

Senator COUZENS. But that did not work out, did it?

Mr. LONGLEY. No; it did not.

Mr. PECORA. It could not possibly have worked out through the mere process of balancing the budget, could it?

Mr. LONGLEY. Not through the mere process of balancing the budget, no; but if we could, through our further efforts, get some liquidation in some way and get enough liquidity to take care of those depositors, and cut our expense and increase our income in some way, we thought possibly we might do it; we believed we could at the time.

Mr. PECORA. What specific efforts do you recall were made to unfreeze your assets or thaw them out?

Mr. LONGLEY. We put some special men on the work of liquidation, old, experienced men who we believed could do that job. You are just talking about that angle of it?

Mr. PECORA. Yes.

Mr. LONGLEY. I believe we got some better results in that way.

Mr. PECORA. Do you recall what results were obtained along those lines?

Mr. LONGLEY. No; I have not the figures.

Mr. PECORA. Were they substantial?

Mr. LONGLEY. I cannot give you the figures. No; I would not say that there was any great amount of liquidation that came from those efforts, but we tried hard enough. I would not say what it was; I do not remember. If they had been very substantial, I think probably they would have shown themselves more.

Mr. PECORA. In 1932, this very year in which application was made for loans from the R.F.C. for the immediate use and availability of the Union Guardian Trust Co., the Union Guardian Trust Co. declared a dividend, did it not?

Mr. LONGLEY. For the first quarter of 1932.

Mr. PECORA. Some time during the year?

Mr. LONGLEY. It was the first quarter of 1932.

Mr. PECORA. A dividend of \$50,000?

Mr. LONGLEY. In the amount of \$50,000.

Mr. PECORA. And that was paid to the group as the sole stockholder?

Mr. LONGLEY. That is right.

Mr. PECORA. What prompted the declaration of that dividend, in view of the then condition of the trust company?

Mr. LONGLEY. A very careful program had been laid out by the group company, to budget their requirements, and it was thought that the earnings of the trust company would permit that \$50,000 dividend.

Mr. PECORA. Was it done in order to accommodate or respond to the wishes and plans of the group?

Mr. LONGLEY. Why, I do not know that you can say that. Of course, the requirements of the group had something to do with it.

Mr. PECORA. Did it not have everything to do with it, as a matter of fact?

Mr. LONGLEY. I do not know that I can say that it had everything to do with it.

Mr. PECORA. What sound business consideration, apart from the desire of the group to increase its income, justified the declaration of this dividend by the Union Guardian Trust Co. in 1932?

Mr. LONGLEY. I do not know that there was any. They just injected \$4,000,000 into the trust company. It was thought that the \$4,000,000 would go a long way toward putting the assets in better condition; and \$50,000 was such a small part of what they had just put in that they felt entitled to that amount, and the directors of the trust company agreed with them, some of them.

Mr. PECORA. There has been testimony given to this committee in the course of these hearings that during the years 1929, 1930, 1931, and 1932 the group received in cash dividends from various unit banks an aggregate of over \$9,000,000, and that in the same period of time the group put back into various unit banks an aggregate sum of about \$8,400,000. Are you familiar with those facts?

Mr. LONGLEY. No, not very. I know something, of course, about the amounts the group put back, some of the items that the group put back, because a large part of that came to the trust company.

Mr. PECORA. That is just what I was coming to. Is it not a fact that approximately seven and a half millions of dollars of that eight million four hundred thousand and odd dollars that the group put back into unit banks went to the Union Guardian Trust Co. alone?

Mr. LONGLEY. Four millions at the close of 1931 and three and a half millions at the close of 1932. Seven and a half millions; that is correct.

Mr. PECORA. Which is an indication of the distress then being suffered by the Union Guardian Trust Co as compared with the distress being felt by all the other unit banks of the group; is that right?

Mr. LONGLEY. That is right.

Mr. PECORA. And notwithstanding that distress, the trust company in 1932 declared this \$50,000 cash dividend which was received by the group?

Mr. LONGLEY. That is right.

Mr. PECORA. Were you a director of the group from its inception, Mr. Longley?

Mr. LONGLEY. No.

Mr. PECORA. When did you first become a director of the group?

Mr. LONGLEY. Late in 1931—no; wait a minute. Of the group? I think that was early in 1932. I can give you that accurately. (After referring to memoranda) December 14, 1931, I was elected to the board of directors of the Guardian Detroit Union Group.

Mr. PECORA. Was that your first affiliation in any way, shape or form with the group?

Mr. LONGLEY. Yes; I think so.

Mr. PECORA. Had you been connected with it in any professional capacity, as an attorney, prior to that time?

Mr. LONGLEY. No.

Senator COUZENS. Were you a substantial stockholder at that time.

Mr. LONGLEY. I would not call myself a substantial stockholder. I had, I think, 120 shares, perhaps a little more. I think my holdings finally ran up to 320 shares.

Senator COUZENS. You heard Mr. Stalker's testimony, did you not, as to how he came to be relieved of the presidency of the Union Guardian Trust Co.?

Mr. LONGLEY. Yes; I think so.

Senator COUZENS. He testified, as I remember it—perhaps at the suggestion of Mr. Pecora—that a lawyer would make a better banker than he would.

Mr. LONGLEY. I do not know just how he put it. I think perhaps he said that a good lawyer would do a better job than a poor banker. But John Stalker was a good banker. He has worked with me very closely.

Senator COUZENS. Why was he removed, if he was a good banker?

Mr. LONGLEY. He was not removed from the organization.

Senator COUZENS. No; but he was removed from the presidency of it and you were put in his place.

Mr. LONGLEY. Yes.

Senator COUZENS. Why did that happen?

Mr. LONGLEY. His services were not lost to the slightest degree.

Senator COUZENS. He was demoted, was he not?

Mr. LONGLEY. Would you call the vice chairmanship of the board a demotion? I would say it was a promotion.

Senator COUZENS. Not if I understand the general processes of the operation of the minds of those directors, I would not call it a promotion.

Mr. LONGLEY. Well, I cannot follow those fellows.

Senator COUZENS. What is your interpretation? Is that really a demotion or a promotion?

Mr. LONGLEY. I do not think it was regarded as a demotion. Mr. Stalker went right on with his work as he had. I do not know whether he thought it was a demotion or not.

Senator COUZENS. His testimony so indicated; and I remember that Mr. Harriman of the Harriman National was made chairman as a demotion to take him out of the active management of the Harriman National Bank.

Mr. LONGLEY. I do not think I would call it a demotion in Mr. Stalker's case.

Senator COUZENS. He felt it was, because he said he thought a good lawyer would make a better banker than a poor banker would.

Mr. LONGLEY. I do not think it made very much difference in the services that he rendered and continued to render to the trust company.

Mr. PECORA. Mr. Longley, I show you what purports to be a photostatic copy of another statement or report obtained from the files and archives of the Union Guardian Trust Co., entitled "Certificate of deposit withdrawals (Feb. 1 to Feb. 11, inclusive, 1933)." Will you look at it and tell me if you recognize it to be an authentic or true and correct copy of such a report or statement from the files and records of the Trust Co.?

Mr. LONGLEY. Yes; I think that is.

Mr. PECORA. I offer it in evidence.

Senator COUZENS. The same will be admitted.

(Photostatic copy of sheet entitled "Certificate of deposit withdrawals (Feb. 1 to Feb. 11, inclusive, 1933)" was received in evidence, marked "Committee Exhibit No. 91, Jan. 17, 1934.") (See p. 5056.)

Mr. LONGLEY. I am assuming it is correct, if you got it from the records.

Mr. PECORA. Yes. Will you look at this exhibit which has just been marked "Committee Exhibit No. 91" as of this date, and see if you recognize any of the names of the depositors withdrawing their certificate of deposit accounts between February 1 and February 11, 1933—the names of any directors or officers either of the Union Guardian Trust Co. or of the group?

Mr. LONGLEY. George W. Trendle is the only director on this list. I might say in that connection that Mr. Trendle had placed large sums on deposit in the A funds for investment, and I take it that these are withdrawals for the purpose of investing. Then above, on February 2, in the name of the Murray W. Sales Co. Of course that is a corporation of which Murray W. Sales was a director at that time. I do not see any others on here directly or indirectly connected with those withdrawals. Mr. Sales' withdrawal is apparently a normal one, \$25,000. Mr. Trendle's seems to be quite a normal one.

Mr. PECORA. As I recall it, you became president of this trust company in the early part of the year 1932, at the annual meeting of the stockholders and directors?

Mr. LONGLEY. That is right.

Mr. PECORA. Are you familiar with the condition, reported by the State bank examiner, of the trust company, as result of his examination made as of August 8, 1932?

Mr. LONGLEY. In a general way, I think so.

Mr. PECORA. Do you know that at that time Mr. R. I. Hudson, who was the gentleman who made the examination for the Banking Commission of the State of Michigan, among other things reported as follows concerning the condition of the bank as of August 8, 1932? [Reading:]

It is practically impossible to determine the liquidity of this company. They have an authorized loan of \$15,000,000 with the R.F.C. and, at the time of examination, had already obtained \$7,426,685.44.

Mr. LONGLEY. I do not remember that, but if it was found in his report it is probably true. I have no question about it.

Mr. PECORA. That comment was based on the facts, you think?

Mr. LONGLEY. I think it was based on his examination.

Mr. PECORA. You think it is a fair comment?

Mr. LONGLEY. Let me take it just a minute and see. (After referring to paper:) Well, I think that is a fair comment. It was a most difficult thing.

Mr. PECORA. Did you know that the State bank examiner, in his report of examination of the bank made as of August 8, 1932, showed a net deficiency in the bank's condition of \$2,915,889.34?

Mr. LONGLEY. That is not quite the way I would put it.

Mr. PECORA. That is the way he put it.

Mr. LONGLEY. No. Is it not stated—have you a photostat of it?

Mr. PECORA. Yes.

Mr. LONGLEY. I think it is stated as estimated, is it not—the losses he suggests there?

Mr. PECORA. Under the caption of "Examiner's Estimate of Bank's Condition."

Mr. LONGLEY. So that was his estimate of the deficiency?

Mr. PECORA. Yes. Don't you think the estimate was accurate?

Mr. LONGLEY. No; I do not.

Mr. PECORA. What do you think it was?

Mr. LONGLEY. We finally worked it out on a different basis.

Mr. PECORA. You know that he said, in reviewing the assets he found in the bank at that time, as follows:

Summary of assets just includes doubtful and loss, as practically all assets are slow and undesirable.

Mr. LONGLEY. I do not remember that note, but it may have been in there.

Mr. PECORA. Do you know that he stated as follows in that report:

The figures set up in this summary give a fairly complete picture of this company. An effort has been made to set out in a fair manner the losses and doubtful items of the various departments. At the present time a complete analysis of the mortgage department is impossible, and many losses are apt to show up in the future. The company is in a very serious position, and final disposition is left to the office.

Meaning the office of the banking commission.

Mr. LONGLEY. I suppose; yes.

Mr. PECORA. Are you familiar with that?

Mr. LONGLEY. I remember it, generally. I have not seen it for some time, but I think it is probably just as he turned it in.

Mr. PECORA. That is, that is a fair report—a fair characterization?

Mr. LONGLEY. I think that is his opinion, all right. We had some differences on our final work-out of the thing; it was so difficult at that time to fix values, so difficult to determine what man could and what man could not take care of his future payments, and employment was very, very poor in Detroit, and the curve on mortgage collections follows the curve of employment almost exactly.

Mr. PECORA. Do you know that he made the following comment in his report of that examination:

Credit files on loans and discounts very unsatisfactory. The few statements in files are mostly on corporations, hardly any on individuals, and the few statements are in most cases obsolete. No attempt appears to be made to have adequate credit information on short collateral lines.

Mr. LONGLEY. We were making every effort to correct that at that time.

Mr. PECORA. How had the credit files on loans and discounts been permitted to lapse into a condition where the examiner, as of August 1932, reports them as being very unsatisfactory and "the few statements in the files are mostly on corporations, hardly any on individuals, and the few statements are in most cases obsolete"?

Mr. LONGLEY. Well, I do not know how it happened in the past, but I do know that these new men that we put to work on that liquidation were making every effort to get those credit files as they should be. They were very strenuously attacking that job.

Senator COUZENS. Did they get into that condition under Mr. Stalker's administration?

Mr. LONGLEY. They were in that condition when I took hold of it, as that report, of course, indicates.

Mr. PECORA. Do you recall that shortly after Mr. Hudson, the State examiner, completed this examination, he and Mr. M. C. Taylor, deputy commissioner of banking for the State of Michigan, attended a conference with a number of the directors of the trust company with regard to the condition of the trust company and the losses to be written off?

Mr. LONGLEY. What date was that?

Mr. PECORA. Well, it was some time shortly after the completion of this examination.

Mr. LONGLEY. Oh. This same examination?

Mr. PECORA. Yes.

Mr. LONGLEY. Yes; I remember.

Mr. PECORA. Were you one of the directors with whom that conference was held by Mr. Hudson, the examiner, and Mr. Taylor, deputy banking commissioner?

Mr. LONGLEY. Yes.

Mr. PECORA. What was the substance of the discussion in that conference?

Mr. LONGLEY. These write-offs and estimated losses.

Mr. PECORA. What write-offs were agreed upon should be made? Do you remember the aggregate amount?

Mr. LONGLEY. It was finally determined by the Department that we should write off somewhere around 3½ million dollars.

Mr. PECORA. How was that accomplished?

Mr. LONGLEY. The officers wrote off those items, picking out what they considered, with the banking department, were the losses that should be written down and out of the books.

Mr. PECORA. Was it in order to enable the trust company to make these write-offs of about 3½ million dollars that the trust company about that time obtained a loan of 3½ million dollars from the Board?

Mr. LONGLEY. Yes—well, no; the loan was made to the group.

Mr. PECORA. The loan was made to the group?

Mr. LONGLEY. That is right.

Mr. PECORA. And the group then made it to the Trust Co.?

Mr. LONGLEY. Yes.

Senator COUZENS. Was that the only State bank examination that was made while you were president of the Trust Co.?

Mr. LONGLEY. I think there was one—let me see [After referring to data.] Yes; I guess that is right; that was the only one.

Senator COUZENS. The only examination made while you were president?

Mr. LONGLEY. Yes; that is the only one.

Mr. PECORA. Do you know a corporation called the Congress Corporation?

Mr. LONGLEY. I know of it.

Mr. PECORA. And is that a subsidiary or affiliate of the group?

Mr. LONGLEY. Yes.

Mr. PECORA. It was organized by the group, was it not?

Mr. LONGLEY. I think so.

Mr. PECORA. For what purpose?

Mr. LONGLEY. I do not know: I never saw the documents in connection with that company. I know that these assets that were lifted out of the Trust Co. were sold to the Congress Corporation.

Mr. PECORA. By the group?

Mr. LONGLEY. No; by the trust company itself; and I am assuming that the function of the Congress Corporation at that time was for the purpose of taking these assets that were written off.

Mr. PECORA. In other words, the Congress Corporation was used, to speak in the vernacular, as a sort of "dumping ground" for the bad assets that were taken out of the trust company, was it not?

Mr. LONGLEY. Well, they took those assets of the trust company. What else they took I do not know, because I was not connected with the Congress Corporation.

Mr. PECORA. You were connected with the group, were you not?

Mr. LONGLEY. Yes.

Mr. PECORA. And that was all done at the instance of the group and in furtherance of the group's policy?

Mr. LONGLEY. That is right; but I would not like to try to tell you what the business of the Congress Corporation was, because I do not believe I ever found out, even by hearsay. I know they took those assets.

Mr. PECORA. As a director of the group, were you not kept posted or informed currently as to the activities of business transactions of the group?

Mr. LONGLEY. Yes.

Mr. PECORA. In that fashion did you not learn the uses and purposes to which the Congress Corporation was being applied by the group?

Mr. LONGLEY. In a general way; yes.

Mr. PECORA. And what were they, in a general way?

Mr. LONGLEY. I do not remember having any particular business with the Congress Corporation brought to my attention other than these things that had to do with the Trust Co.

Mr. PECORA. With your Trust Co.?

Mr. LONGLEY. I suppose I was not particularly attentive and was not interested in anything except what had to do with the Trust Co. at that time, so far as the Congress Corporation was concerned.

Mr. PECORA. During the year 1932 did the board of directors of the Trust Co. appoint an examining committee to make an examination of the Trust Co., as of December 13, 1932?

Mr. LONGLEY. Yes.

Mr. PECORA. Did that examining committee make a report of its examination?

Mr. LONGLEY. Yes; after the holiday was concluded.

Mr. PECORA. Have you a copy of it?

Mr. LONGLEY. No; I have not.

Mr. PECORA. Do you remember who the members of that examining committee of the board were?

Mr. LONGLEY. I remember some of them; I do not know that I can tell you all; but Mr. George Klein and Mr. Walker and others. Have you a copy of it? That will show.

Mr. PECORA. Do you recall that Mr. Clarkson Wormer was chairman of the examining committee?

Mr. LONGLEY. I do not know that he was on that committee. He made a report on real estate.

Mr. PECORA. I show you what purports to be a photostatic copy of the report of this examining committee of the Union Guardian Trust Co. as of December 13, 1932, which report is signed on March 10, 1932. Will you look at it and tell me if you recognize it to be a true and correct copy of such report?

Mr. LONGLEY. This would appear to be, from what I remember of it. If you took it from the records, I will assume so.

Mr. PECORA. It was so taken from the records. I offer it in evidence; but in view of its voluminous character I do not think it necessary at this time, at least, to spread it in full on the minutes. I wish to make references to portions of the text thereof from time to time.

Senator COUZENS. The same may be admitted, but not printed in the record. Just mark it as an exhibit.

(Photostatic copy of report of examining committee of Union Guardian Trust Co. as of Dec. 13, 1932, was received in evidence, marked "Committee Exhibit No. 92, Jan. 17, 1934.")

Mr. LONGLEY. Mr. Pecora, I do not find Mr. Wormer's name on the committee. I wonder if he was not just a member of the subcommittee that this committee appointed to examine real estate?

Mr. PECORA. I understand the original was signed by him as chairman of the committee.

Mr. LONGLEY. On page 2 of this report which is marked "Exhibit 92" I find this [reading]:

Partly as a matter of expediency and partly as a method of obtaining the most accurate information, the committee—

that is, the examining committee—

authorized its chairman to appoint a subcommittee of directors to examine real-estate mortgages and land contracts owned by the Trust Co. The following subcommittee was accordingly appointed:

And it names Mr. Wormer, Mr. Trowbridge, Mr. Deming, Dr. George R. Andrews, Mr. Alger Sheldon; and none of those gentlemen seem to be on the committee itself. So apparently they were directors taken from elsewhere and not on that committee.

Mr. PECORA. Let me read the following from the report just received in evidence and marked "Committee Exhibit No. 92." I am reading from pages 4 and 5 thereof—

Senator COUZENS. Have you a record of who signed that report, before you start to read that?

Mr. PECORA. Yes, sir; Mr. Wormer.

Mr. LONGLEY. I think you are mistaken, Mr. Pecora, on that. He signed that subcommittee report that is attached, I believe. I think all of the members of the committee signed this examination.

Mr. PECORA. The only name that appears on this copy is Mr. Wormer, Jr.

Mr. LONGLEY. No.

Mr. PECORA. Unless I have overlooked something. The report is signed by William K. Muir, H. B. Hoyt, Robert Oakland, George B. Russell, George H. Klein, C. H. Murphy, Fred C. Austin, and H. H. Walker.

Mr. LONGLEY. That is right. That is the committee. The subcommittee report is attached as an exhibit.

Mr. PECORA. The subcommittee report is the one signed by Mr. Wormer?

Mr. LONGLEY. That is right; and that is the report on the real estate.

Mr. PECORA. Now, reading from pages 4 and 5 of the report [reading]:

The assets referred to in the foregoing have been classified in four columns, "Good", "Slow", "Doubtful", and "Loss" (Except bonds and securities, land contracts and real estate, which only appear in "Good" and "Loss"). Detailed schedules accompany the report, with the exception of items classified 100 percent good. These are not listed. Items marked "Slow" are considered by the committee to be eventually good. "Doubtful" does not indicate a probable 100 percent loss of the total in the column. No doubt many of such items will eventually pay out, at least in part, and in some cases perhaps substantially. A 50 percent reserve is later recommended. The committee feels that there is a definite loss which should be charged off of items in the loss column.

Since the date as of which this examination is made you have listened to the president's report covering the result of the Trust Co.'s business in the year 1932 in which it was stated that late in December the Group made provision for "lifting out" about $3\frac{1}{2}$ million dollars of questionable assets. Explaining more in detail, this figure represented what we consider to be fair charge-off items as determined by the officers of this company and of the Group company, and these were sold at face value to the Congress Corporation, a holding company wholly owned by the Group company, the consideration being the cancellation of the Trust Co.'s liability on a like amount of certificates of deposit owned by the Ford interests"—

And so forth.

Mr. Longley, you referred in your testimony this forenoon, among other things, to the withdrawal by the Trust Co. from deposit accounts which it maintained in various other banks of sums aggregating a little more than $3\frac{1}{2}$ million dollars, which withdrawals you said were in cash, and the cash was placed in the vaults of the company?

Mr. LONGLEY. Yes; after the holiday.

Mr. PECORA. That is between February 15 and February 23, 1932?

Mr. LONGLEY. In there somewhere.

Mr. PECORA. Can you tell this committee what disposition was made of any of the cash so withdrawn and stored in the vaults of the Trust Co.?

Mr. LONGLEY. Well, what was not paid to the trust depositors is still there, I suppose.

Mr. PECORA. What trust depositors received any payment therefrom?

Mr. LONGLEY. I have no idea, without seeing the records. The A fund depositors that are on the records of the company, and who applied, undoubtedly were paid something; but I do not know who they were, now, without referring again to the books.

Mr. PECORA. Do you know how much of the $3\frac{1}{2}$ million dollars approximately was so paid out?

Mr. LONGLEY. I have not the slightest idea. I think, probably no more than normal.

Mr. PECORA. What would be normal?

Mr. LONGLEY. Well, that account maintained itself around between 4 and 6 millions. I think probably that account maintained

itself even after the holiday; I don't know; I am just guessing, but I would suppose so.

Senator COUZENS. From the time of the closing of the Trust Co. to the time of the appointment of the conservator, you have had no access to the records?

Mr. LONGLEY. No, sir; I have not. I think I can get information by calling Mr. Harris. He probably would give it to me. Whenever I have asked him for information I have received it.

Senator COUZENS. That is, the conservator has no objection to giving you access to the records he has in his possession?

Mr. LONGLEY. He has not turned me loose in the records, but whenever I have asked questions he has given me information.

Senator COUZENS. I think the committee would like to have a record of the withdrawals of those A funds from the time the three million and odd dollars was withdrawn from banks and placed in the vaults, up to the time of the appointment of the conservator, if you can get that information.

Mr. LONGLEY. Would you like me to get it by mail?

Senator COUZENS. Well, I think if you can get by telephone we would like it better—or by wire.

Mr. LONGLEY. I will try to, Senator.

Mr. PECORA. Mr. Longley, do you recall a meeting of the executive committee of the board of directors of the Union Guardian Trust Co. which was held on February 23, 1933?

Mr. LONGLEY. Not just by that description; no.

Mr. PECORA. Do you recall a meeting at which took place the adoption of the following resolution, according to the minute book [reading]:

Resolved, That the officers be and they hereby are directed to withdraw all funds held by depositaries in Chicago for the account of and on behalf of this company;

2. *Resolved*, That anticipated requirements for disbursement of trust accounts for 30 days be withdrawn from the depositaries of the bank in cash and held in the vaults of the bank;

Further resolved. That 90 percent of the balance then on deposit be withdrawn and invested in short-term United States Government obligations, preferably Treasury bills or retained in cash or both.

Further resolved. That the balance on deposit after such withdrawals be carried on deposit in the New York and Pittsburgh depositaries of the company or withdrawn at any time, held in cash or invested in short-term obligations of the United States Government, preferably Treasury bills.

The officers and directors are to do all things necessary to carry the foregoing into effect.

Resolved, That the officers be and they are hereby authorized to conduct the fiduciary business of the company (with a very considerable degree of freedom of action), provided that in so doing the company's debtor and creditor relationships and its own status as regards assets and liabilities are not affected.

Mr. LONGLEY. Yes; I remember that meeting.

Mr. PECORA. You attended the meeting as a member of the executive committee of the board?

Mr. LONGLEY. I am not certain. Does it show that I attended it.

Mr. PECORA. We have not the minute book here. I have only certain extracts.

Mr. LONGLEY. I am not sure I attended it, but I am familiar with the adoption of that resolution.

Senator COUZENS. Do you know who were there?

Mr. LONGLEY. No, sir; not without checking up on the minutes. That is what I was wondering about.

Mr. PECORA. Do you recall that 2 days after this meeting of the executive committee of the board there was a meeting of the board of directors of the Trust Co. at which, among other things, the following action was taken—and I am reading, now, from what purports to be a copy of page 118 of the minute book in use at that time [reading]:

The minutes of the regular meeting of the executive committee held Thursday, February 23, 1933, were read and after discussion the following resolution was duly made, supported and unanimously carried:

"Resolved, That the action of the executive committee at its meeting held February 23, 1933, be ratified and approved, except that the clause contained in Resolution 7, reading as follows: 'with a very considerable degree of freedom of action' be stricken out, and that the officers be, and they are hereby, directed to continue the trust business of the company until further instruction from the board, provided that no debtor or creditor relation of the bank be affected.

"Further resolved, That the officers be and they are hereby directed to call the board together from day to day if any new changes in the situation take place."

It was the consensus that the banking commissioner be further informed of the company's present operations through presentation to him of a copy of the minutes of the meeting of the executive committee held February 23, 1933, together with a copy of the minutes of this meeting.

— You note that the resolution styled "Resolution No. 7", adopted by the executive committee on February 23, 1933, was amended at the board meeting held 2 days later by striking out the words "with a very considerable degree of freedom of action?"

Mr. LONGLEY. Yes.

Mr. PECORA. Do you recall the discussion that was had at the meeting of the board on February 25, 1933, at which that action was taken?

Mr. LONGLEY. No; I do not. I do not know just why that was. I would assume it was because the directors were being super-cautious about the operations of the company during the holiday.

Senator COUZENS. I would like to have your interpretation, Mr. Longley, of the meaning of this resolution which has been designated as "no. 7", where it says that you may have freedom of action, "provided, that in so doing the company's debtor and creditor relationships and its own status as regards assets and liabilities are not effected." What does that mean?

Mr. LONGLEY. I do not know exactly what that latter part means, but the thought, as I remember it, was that during that period of lack of knowledge of what our situation was going to be, the termination of the holiday or when the new legislation was worked out, the directors were trying to be as careful as they could on all questions concerning debtor and creditor relationships. I think that was a very sensible thing to do.

Senator COUZENS. How could you conduct the fiduciary business of the company with a very considerable degree of freedom—

Mr. LONGLEY. That was the part that was stricken.

Senator COUZENS. Yes; but it was in operation 2 days before. It was in there when the resolution was adopted. I am just wonder-

ing how you could conduct any business without "the company's debtor and creditor relationships and its own status in regard to liabilities and assets being affected." That is such a ridiculous resolution, to me, that I do not understand it.

Mr. LONGLEY. I am not sure that I fully appreciate the meaning of it, myself; but we were trying to be as exceedingly cautious as we could, as far as the creditors were concerned, and the depositors, and the R.F.C.; but at the same time we thought it absolutely necessary to preserve our fiduciary business and to protect those trust papers of the company, and we did that as best we could. I think that is about as far as it went during that period.

Senator COUZENS. Any withdrawal of any of those funds by one of your clients or customers would affect the debtor and creditor relationships. It seems to me that it is contradictory. In one place you say you can go ahead and in another place you say you must stop.

Mr. LONGLEY. I would not like to try to say what that meant. I know what we did.

Senator COUZENS. What you did was to pay out some of those trust funds?

Mr. LONGLEY. Yes; we did; exactly.

Senator COUZENS. Right up to the time that the conservator was appointed?

Mr. LONGLEY. That is right. I do not know what the amounts were. I only know we did it.

Senator COUZENS. That is the information that you are going to get for the committee?

Mr. LONGLEY. Yes, sir.

Mr. PECORA. For the purpose of refreshing your recollection, let me read further from the minute book this extract of the minutes of a meeting held on February 25, last, at page 119 of the minute book [reading]:

Upon inquiry the board was informed that the last examination of the bank indicated liabilities in excess of \$7,000,000 over the assets of the company, that of this amount 3½ million dollars had been written off through arrangement with the depositors and would be approved by the banking commissioner.

Upon inquiry the board was informed that substantially all of the class A trust fund deposits had been withdrawn from the depositaries of the company outside of the State of Michigan; that currency approximating \$3,463,000 is held in the vaults in the bank and that the balance remaining in depositaries outside the State of Michigan is approximately \$189,000.

Do you recall that those proceedings took place at the board meeting?

Mr. LONGLEY. I think that is probably true.

Senator COUZENS. We will recess at this time until 2 o'clock.

(Whereupon, at 1:05 p.m., the subcommittee took a recess until 2 p.m., Jan. 17, 1934.)

AFTER RECESS

The subcommittee resumed at 2 p.m. on the expiration of the recess.

The CHAIRMAN. The subcommittee will come to order and resume its hearing.

TESTIMONY OF CLIFFORD B. LONGLEY—Resumed

Mr. PECORA. Mr. Longley, referring to the exhibit known as "Committee Exhibit No. 92", of this date, which was received in evidence this morning, and which consists of a copy of the report of the examining committee of the Union Guardian Detroit Co., as of December 13, 1932—

Mr. LONGLEY (interposing). You mean of the Union Guardian Trust Co.?

Mr. PECORA. Yes; of the Union Guardian Trust Co. I want to call your attention to schedule no. 6 attached to this report and forming a part thereof, showing the liability of officers and directors of the bank as of December 13, 1932. And it shows that as of that date the liability of the different officers and directors of the bank, on their respective individual accounts, aggregated \$2,477,040.45; and that the aggregate of their liabilities as endorsers or guarantors was \$136,010. Do you know whether anything has been done toward liquidating these liabilities of officers and directors?

Mr. LONGLEY. Since that report?

Mr. PECORA. Yes.

Mr. LONGLEY. I do not know how much; no. I think every effort has been made, on the part of the conservator principally, to collect those loans.

Mr. PECORA. Well, now, many of these loans were of long standing, weren't they?

Mr. LONGLEY. Oh, yes. They were old accounts rather than loans of long standing. They would change from time to time, for instance, take the Oakman loan—

Mr. PECORA (interposing). The Robert Oakman loan is a direct liability of the payer, in the aggregate as of December 13, 1932, according to this report, of \$1,653,412.65; and in addition to which—

Mr. LONGLEY (interposing). Yes.

Mr. PECORA (continuing). He was liable as endorser or guarantor to the extent of \$105,000.

Mr. LONGLEY. Yes, sir.

Mr. PECORA. Both these items are exclusive of mortgage loans. And what were you going to say a moment ago about the Oakman loan account?

Mr. LONGLEY. Well, that was paid down and increased again. It was a more or less open account, or an open loan on account of those advances, I mean that part that pertains to the advances.

Mr. PECORA. Yes. Anything else?

Mr. LONGLEY. I think that is it.

Senator COUZENS. And for that reason you do not call it an old loan?

Mr. LONGLEY. Well, it is an old loan. His business goes back, I believe, to the year 1916. But he has gotten loans from the trust company and then they have been paid off, and then new loans have been made, as he developed his real-estate business, over the question of the years he had been a customer of the trust company, I think since approximately 1916. Of course, real estate isn't liquid, or is not liquidating very fast now, nor was it in 1932.

Mr. PECORA. Was that the principal kind of collateral that he gave for those loans, real estate?

Mr. LONGLEY. Yes, sir. He was in the real-estate business, a large real-estate operator in the city of Detroit.

Mr. PECORA. In addition to this personal liability, what mortgage loans were made to him, I mean loans that are not included in this aggregate of \$1,653,412.65?

Mr. LONGLEY. I do not know. At the end of the year my memorandum shows we had \$144,426 in mortgage loans.

Mr. PECORA. Exclusive of this liability on his part of \$1,653,412.65.

Mr. LONGLEY. Yes; outside of that. Now, wait a minute! What did you say?

Mr. PECORA. According to the report of the examining committee as of December 13, 1932, the liability as payer of Robert Oakman, a director, was \$1,653,412.65, except mortgage loans.

Mr. LONGLEY. Well, if that report says that, that is probably so.

Mr. PECORA. Weren't you familiar with the loan account of Mr. Oakman?

Mr. LONGLEY. Somewhat; yes.

Mr. PECORA. To what extent? What can you tell the committee about it? How was it secured, among other things?

Mr. LONGLEY. It was secured by real estate owned by Mr. Oakman, running south from Grand River Avenue, we will say. And I believe he reduced his loan towards—

Mr. PECORA (interposing). Was it improved real estate?

Mr. LONGLEY. Oh, yes. He put a great deal of money into that real estate. It ran into the millions of dollars, I think, over those years.

Mr. PECORA. Had he financed those real-estate operations largely by means of loans made to him by the trust company?

Mr. LONGLEY. I think so. There was also a piece of real estate that ran south of this parcel adjoining Grand River Avenue, nearly as far down as the River Rouge plant. Then there was another piece that he had and that is covered by those loans, that ran north from Grand River Avenue, and around close to Third Avenue, nearly to the Ford plant at Highland Park. I do not know how many miles that is, but it was adjoining what is called the Oakman Boulevard, running approximately from one plant to the other. In all probability—and this is a figure that has been given to me as an estimate—he had an investment of perhaps 10 millions of dollars in those properties. Some of it, of course, had been paid back. But his total investment, perhaps, would aggregate that sum.

Mr. PECORA. To what extent, if you can tell this committee, had this Oakman loan account been liquidated during the year 1932? That is, during the period of the year prior to December 13, 1932, which would take in the greater part of the year?

Mr. LONGLEY. There were a good many payments on the account, but I think as a whole the loan increased rather than decreased.

Mr. PECORA. During the year 1932?

Mr. LONGLEY. I think so. He had to take care of taxes and certain other things that had to be met.

Mr. PECORA. Now, according to the report of the State bank examiner made as of September 14, 1931, on that date Mr. Oakman owed the bank on account of loans upon which he was directly liable an aggregate of \$1,283,000. the entire amount of which was classi-

fied as "slow" in the analysis made of the loan accounts of the trust company at that time. That was about a year and a quarter prior to December 13, 1932, so it would seem that his loan account had increased by something like \$400,000 during the year 1932.

Mr. LONGLEY. I do not think so. I think there has been something left out there. I may be wrong about that, but—

Mr. PECORA (interposing). Well, if it was left out, it was left out by your examining committee.

Mr. LONGLEY. Well, that might be, but I don't know. As I remember that loan, when I first became acquainted with it it was about what it is now, or what it was in February of 1933. There wasn't much change in it.

Senator COUZENS. This State bank examination was as of September 1931 and you were not there with the trust company then?

Mr. LONGLEY. No.

Senator COUZENS. Mr. Pecora, the witness was not there in 1931.

Mr. PECORA. I was not there then, but when I first became familiar with that account it was around \$1,500,000 or \$1,600,000, or that is my recollection.

Mr. PECORA. Toward the end of 1932 it was \$1,653,000.

Mr. LONGLEY. I am talking about the end of 1931. My first recollection of that loan was that it was approximately what it was in February of 1933.

Senator COUZENS. Do you mean by that to say that it was not increased after you became president of the trust company?

Mr. PECORA. Oh, no. He said it was increased.

Mr. LONGLEY. Yes; it was as I remember it. We advanced some funds for his income taxes, and for other taxes, and things such as that, that he had to meet in order to protect the properties.

Senator COUZENS. That was after you became president of the trust company?

Mr. LONGLEY. Yes, sir. Without looking at the account, Mr. Pecora, I could not tell you just what it was.

Mr. PECORA. What was that?

Mr. LONGLEY. Without looking at the account I could not tell you what it was increased to as compared to the period of 1931.

Mr. PECORA. The next largest loan account of a director or officer as shown by the report of the examining committee of the trust company as of December 13, 1932, appears to be that of J. Walter Drake, a director. It amounted to \$159,712.50. Do you know whether anything has been done toward the liquidation of that loan?

Mr. LONGLEY. I don't believe that there was very much done.

The CHAIRMAN. Was it secured?

Mr. LONGLEY. In a way; yes.

Mr. PECORA. In what way?

Mr. LONGLEY. There are \$100,000 of Union Trust Building bonds, and 14,700 shares of Hupp Motor Co. stock.

Mr. PECORA. What kind of stock?

Mr. LONGLEY. Hupp Motor Co. stock.

Mr. PECORA. Oh. I understand now. Hupp Motor Co. stock.

Mr. LONGLEY. Yes. Mr. Drake was connected with that company. It was thought that there would be some recovery in that security. I do not know whether they have sold any of it since then or not.

Mr. PECORA. The next largest loan account of an officer or director as of December 13, 1932, appears to be that of Mr. Frank W. Blair jointly with C. L. Ayers.

Mr. LONGLEY. That is right.

Mr. PECORA. It amounted to \$124,640.34. What can you tell us about that?

Mr. LONGLEY. That is a joint obligation with Mr. Ayers. And I do not believe there has been any great amount of liquidation of it.

Senator COUZENS. What was that secured by?

Mr. LONGLEY. By an agreement of Paris Adams covering the purchase of 500 shares of American Life Insurance Co. stock. And it is my understanding that Mr. Adams has made his payments regularly. There has been that amount, at least, of liquidation.

Mr. PECORA. Now, apparently that loan account was created subsequent to September 14, 1931.

Mr. LONGLEY. No. That is not according to my memory on it.

Mr. PECORA. Well, I do not see Mr. Blair's name in this report.

Mr. LONGLEY. I think if you will look—

Mr. PECORA (interposing). I mean in the report as of September 14, 1931.

Mr. LONGLEY. The date I have is July 16, 1929.

Mr. PECORA. I do find in the analysis of loans, in the report of September 14, 1931, a loan account of one Clarence L. Ayers of \$429,946.87, all of which was classified as "slow". Is that the loan account to which Mr. Blair's liability attached—

Mr. LONGLEY (interposing). I don't think so.

Mr. PECORA (continuing). As of December 13, 1932?

Mr. LONGLEY. I don't think so. I think that is a separate loan. I think that Mr. Ayers' obligation would ultimately be good.

Senator COUZENS. What was the size of it when the trust company closed? Do you know? Have you any records of it?

Mr. LONGLEY. No; I have not.

Mr. PECORA. Now, the next largest loan account of a director or officer as of December 13, 1932, appears to be that of S. L. Deacon, a vice president of the trust company.

Mr. LONGLEY. E. L. Deacon that should be.

Mr. PECORA. Yes; E. L. Deacon, amounting to \$79,000. Do you know anything about that loan?

Mr. LONGLEY. It was originally made in 1928 when Mr. Deacon was employed.

Mr. PECORA. Do you know what the genesis was of that loan?

Mr. LONGLEY. Yes, sir; that was the genesis of it. Mr. Deacon had some properties in Detroit at the time, and he was employed by George L. Fuller & Co. The trust company, as I remember it—and this is all hearsay, but it is what I have been told about this loan—the trust company wanted to employ Mr. Deacon, and offered him the salary, which he refused, and he explained that the salary was not large enough to take care of his needs, that he had been conducting this business, and I believe it was that of some apartment houses that he was purchasing and operating at the same time, and that in order for him to come with the trust company the trust company would have to make some arrangements so that he could handle those apartments. So they took over the loans when they employed him.

Mr. PECORA. What security did the trust company have for that loan account?

Mr. LONGLEY. Well, it was really, I would say, a second mortgage I believe there was a bond issue on the properties. I haven't any note of that, but I believe there was a bond issue on the properties, and the trust company was given a deed, which was recorded as a mortgage until repayment.

Mr. PECORA. A second mortgage?

Mr. LONGLEY. That is what it would amount to. But there was a deed recorded behind those bonds.

Mr. PECORA. In the report by the State bank examiner, as of September 14, 1931, the loan of E. L. Deacon and wife was \$79,000, which corresponds to the amount found by the examining committee as of December 13, 1932. So, apparently, there had been no liquidation of any part of that loan between those dates.

Mr. LONGLEY. During 1932 there was some of it charged off. I think you will find it was charged off around to \$38,000. I don't know whether that happened in the last charge-off or not.

Mr. PECORA. The next largest loan account reported by the examining committee of an officer or director is that of Harry C. Bulkley, a director, amounting to \$63,500.

Mr. LONGLEY. As of what date is that?

Mr. PECORA. As of December 13, 1932, according to the report of the examining committee of the trust company.

Mr. LONGLEY. Well, they are probably correct. My memorandum shows that it is \$69,000.

Mr. PECORA. It is \$63,500 according to the report marked in evidence as exhibit no. 92.

Senator COUZENS. What date are those figures that you have, Mr. Longley?

Mr. LONGLEY. It is "12-20-33." The balance of the loan was \$59,370. Apparently he had paid something on it.

Senator COUZENS. That was over a year afterwards.

Mr. LONGLEY. Oh, yes.

Senator COUZENS. That probably explains it.

Mr. PECORA. What was that loan secured by?

Mr. LONGLEY. There is a lot of Guardian Detroit Union Group stock, and there was a large amount of Machine Co. stock, and 700 shares of the Detroit Local News, and 500 shares of another stock, and 75 shares of Packard Motor Co. and 312 shares of River Rouge Improvement Co. and 200 shares of Lorillard Co. common stock, and the assignment of certain life insurance that he had, and the assignment of an interest in a certain mortgage.

Mr. PECORA. Do you know when Mr. Bulkley's loan liability was first created?

Mr. LONGLEY. It was 10-25-29, according to my memorandum. It was increased in May of 1931.

Mr. PECORA. From what amount to what amount?

Mr. LONGLEY. From \$26,000 to \$69,000. He added \$43,000 to it. I think that loan undoubtedly will be paid.

Mr. PECORA. How was that?

Mr. LONGLEY. I say, I think that loan undoubtedly will be paid.

Mr. PECORA. The next largest loan to an officer or director, as set out in this report of December 13, 1932, was to Luther S. Trowbridge, a director, \$62,000. What do you know about that?

Mr. LONGLEY. Yes; that is true. That loan was originally made in 1930.

The CHAIRMAN. Have you the total loans made to officers and directors?

Mr. PECORA. I have the total shown in this report of December 13, 1932. It is \$2,477,040.45, excepting mortgage loans.

Mr. LONGLEY. And approximately one and one-sixth million of that to one of the directors.

Senator COUZENS. Have you any record, Mr. Pecora, of any other large loans that are criticized by the examiner?

Mr. PECORA. I was looking to see if this Trowbridge loan was mentioned in the examiner's report of September 1931. In the report of examination of state examiner as of September 14, 1931, it appears that this Trowbridge loan account was then \$62,000, which corresponds to the amount on December 13, 1932, and that the entire lot was classified in September 1931 as slow.

What collateral was against that loan?

Senator COUZENS. You just read that, did you not?

Mr. LONGLEY. No; I do not think I read the Trowbridge collateral. There was 45 $\frac{3}{4}$ shares of Guardian Detroit Union Group stock; there were 708 shares of the capital stock of the Village Homes Co., of Grosse Pointe; 144 shares of the capital stock of the Detroit Legal News. That seems to be all.

Mr. PECORA. The next largest loan to a director seems to have been George B. Russell. According to the examining committee's report as of December 13, 1932, that amounts to \$43,700. What do you know about that?

Mr. LONGLEY. The balance on December 20, 1933, seems to have been \$40,000, according to the memorandum that was given to me. This was originally made in 1922. It was increased in 1929 to \$83,000. The collateral was: 717 shares of McChord Radiator; 118 shares of Russell Steel Construction Co.; 214 shares of Republic Gear Co.; 200 shares of Vortex Cup Co.; 800 shares of Sparks-Withington; 150 shares Detroit Bankers; 46 shares United States Steel; 520 shares Claud Neon Lights; 300 shares Detroit Aircraft; 109 shares Walker & Co. A, and 278 shares Walker & Co. B; certificate of beneficial interest covering 638 shares of Michigan Steel Corporation; a demand note of Raymond Russell, in the amount of \$7,100; assignment of one-ninth interest in the estate of George H. Russell; and an assignment of \$45,000 life insurance policies.

Mr. PECORA. The next largest loan account to a director is that of Clarkson C. Wormer, Jr., amounting to \$31,500, according to the examining committee's report as of December 13, 1932.

Mr. LONGLEY. That has since been replaced by cash, through the Congress Corporation.

Mr. PECORA. The next largest is a loan account of \$26,500 to Fred T. Moran, a director.

Mr. LONGLEY. \$25,000, did you say?

Mr. PECORA. \$26,500.

Mr. LONGLEY. That, at the present time, or in December, had been charged off, down to \$10,000. The present collateral is: 620 shares

of Guardian Detroit Union Group; and 150 shares of Central West Casualty Co.

Mr. PECORA. The next largest is a loan to Hobart B. Hoyt, a director, amounting to \$25,000, as of December 13, 1932.

Mr. LONGLEY. That was made in 1929, and the collateral is: 100 shares of General Motors, 37 shares Detroit Edison, 139 shares of Michigan Steel Castings, and an assignment of the interest in the estate of Helen N. Hoyt.

Mr. PECORA. There is a joint loan liability of Fred T. Moran, a director, with one John Dwyer, that I notice in the examining committee's report as of December 13, 1932, mounting to \$158,327.86. What do you know about that?

Mr. LONGLEY. I cannot give you the details of that. It was \$160,000, did you say?

Mr. PECORA. One hundred and fifty-eight thousand three hundred and twenty-seven dollars and some cents.

Mr. LONGLEY. Approximately that. It was a loan that was made some time ago—1931. I cannot give you the details of what is behind that. I have no memorandum of it.

Mr. PECORA. The next largest appears to be a loan of \$11,436.72, to Eugene A. Miller, vice president and comptroller of the trust company, according to the report of the examining committee as of December 13, 1932.

Mr. LONGLEY. I have no memorandum of that. I remember the loan.

Mr. PECORA. Do you know the genesis of that loan?

Mr. LONGLEY. No; I do not. It was an old loan, long before my time.

Mr. PECORA. All the other loans of officers and directors shown on schedule 6 attached to the report of the examining committee of December 13, 1932, are for various amounts, all of them being less than \$10,000 each.

Mr. LONGLEY. Yes; I think so; and most of them to officers. I do not know that there are any other directors; are there?

Mr. PECORA. Most of them appear to have been junior officers.

Mr. LONGLEY. Yes. (After conferring with an associate.) Mr. Pecora, there is one thing that ought to be stated about the Oakman loan. Mr. Oakman was not a director of the Trust Co. until perhaps 10 years or better after he first began business with the Trust Co.

Mr. PECORA. He first began business in 1916?

Mr. LONGLEY. In 1916. I think he did not become a director until 1926 or 1927, something of that sort, long, long after.

Mr. PECORA. From that time on his loan account increased, did it not?

Mr. LONGLEY. No; I think you will find the high point even before that. I never looked it up, but I believe that is what you will find. I have been told that is true.

Mr. PECORA. I note this statement in the body of this report of the examining committee as of December 13, 1932 [reading]:

The Trust Co.'s loan with Reconstruction Finance Corporation December 13, 1932, was \$7,300,540.20, secured by several hundred items of collateral having a total face value of approximately \$31,000,000. It would perhaps be interesting to report the committee's total appraisal of this collateral, but the committee did not feel justified in taking additional time to segregate these items from the general classification list, all of which are included therein.

Mr. LONGLEY. Yes.

Mr. PECORA. Do you know any special reason why the committee did not take the time to appraise the market value, or the liquidating value of this collateral pledged with the R.F.C.?

Mr. LONGLEY. They started that job in December, as I remember, and they spent days and days and days at it, away from their own businesses. There was a hold-up on it during the declaration of the holiday, and then afterwards they decided to complete it. When they had finished with that, they felt that they did not want to take the time—these particular men—to segregate those particular items that were pledged, go through them, and appraise them. I am sorry they did not do it now, myself; I wish very much that they had.

Mr. PECORA. Did they ever make such an appraisal and report thereon to the officers and directors of the bank?

Mr. LONGLEY. No; they did not, I am very sorry to say, because the personal opinion of one of the directors, George Klein, was expressed before the grand jury in Detroit, as I remember, as to his examination. As I remember, he stated that he felt that these assets would liquidate the Trust Co. deposits, and creditors.

Mr. PECORA. Did he give anything more detailed than that?

Mr. LONGLEY. I do not remember what it was. It is in his testimony.

Senator COUZENS. Do you think they would liquidate the deposit liability of the Trust Co.?

Mr. LONGLEY. I do not know, now. At the time we closed I fully believed that it would. I felt certain that if we could preserve that fiduciary business through this loan, that business would, in time, pay out every creditor and every depositor.

Senator COUZENS. Have they not now arranged to conduct the fiduciary business?

Mr. LONGLEY. They are in process of arranging it. I have not heard for the last 3 or 4 weeks.

Mr. PECORA. Let me read to you the following from this report of the examining committee of the Trust Co. as of December 13, 1932, under the title of "Liquidation, 1932", appearing at pages 14 and 15 of the report in question [reading]:

Your committee recognizes that since the date of the previous examination conditions have made it extremely difficult for the officers to effect substantial liquidation of assets. In cases where loans are not supported by marketable securities every effort has been made to obtain statements of the company whose stock is held as collateral, and/or the maker of the note.

Loans and discounts as of January 1, 1932, amounted to \$11,387,996.48, and as of the date of this examination, \$9,809,752.43, showing a net reduction of \$1,578,244.05.

Do you know how that reduction was obtained?

Mr. LONGLEY. No; I do not.

Mr. PECORA. This is what your examining committee said about it.

Mr. LONGLEY. Yes.

Mr. PECORA. I read further from the report—

Mr. LONGLEY. I do know that during the year 1932 there was approximately \$5,000,000 liquidation.

Mr. PECORA. This is what the examining committee found to have been the principal method of producing that net reduction in the

loans and discounts as between January 1, 1932, and December 13, 1932 [reading]:

\$915,479.88 represented charge-offs, and \$362,764.17 liquidation.

So that nearly two thirds of the reduction was brought about by charge-offs.

Mr. LONGLEY. That was one particular item, was it not?

Mr. PECORA. What is that?

Mr. LONGLEY. That was one particular item.

Mr. PECORA. What was that one particular item?

Mr. LONGLEY. I do not know. You read it—loans and discounts, wasn't it?

Mr. PECORA. Yes.

Mr. LONGLEY. For the whole Trust Co. during that year, we got approximate liquidation of around \$5,000,000.

Senator COUZENS. What was that particular item of \$915,000 charge-off under loans and discounts?

Mr. LONGLEY. I do not know without checking up.

Mr. PECORA. Let me read to you the following from page 8 of the examining committee's report of December 13, 1932, under the caption of "Charge-off losses column":

In view of what has been reported in the foregoing, your committee recommends either charging off the items under net loss, totaling \$4,789,689.89, or setting up an appropriate special reserve to which these items of loss, when taken, may be charged.

Senator COUZENS. Is there any indication what those items are? Do you know what they are, Mr. Longley?

Mr. LONGLEY. No; not without checking the report. That was the report, you see, that came after the holiday, and I never had much of an opportunity to study out what should be done with it.

Mr. PECORA. On page 20 of this examining committee's report, under the caption "Summary of Charge-offs, Etc.", I read as follows:

Capital structure, December 13, 1932: Capital surplus and undivided profits, \$7,394,891.87; reserves for balance sheet, \$1,034,187.45; less rent reserve, not allowed, \$87,864.63; total, \$946,322.82.

Of the above reserves, there were used for write-off purposes, prior to the date of this report, \$90,372.72, of which \$7,000 was for items not covered by the committee's recommendations.

Charges as recommended: Losses, \$4,789,689.89. Doubtful, one half of \$2,924-131.97, amounting to \$1,462,065.98. For loans of less than \$5,000, \$79,184. For trust account advances of less than \$2,000, \$17,691.94. Reserves for American State bank guarantees, \$420,442.53. Reserves for items in litigation, \$155,428.50. C. W. Harrah, \$61,750. Childrens' fund, \$60,000, making a total of charge-offs of \$7,046,252.84.

Mr. LONGLEY. Charge-offs and reserves.

Mr. PECORA. Charge-offs and reserves, leaving a resulting capital of \$1,287,961.85.

Senator COUZENS. Have you a copy of this report, Mr. Longley?

Mr. LONGLEY. No, sir.

Senator COUZENS. You will notice on the bottom of that report that Mr. Pecora just read, the item "Childrens' fund." That does not mean the childrens' fund of Michigan, does it? There could not be any charge-offs for that?

Mr. LONGLEY. Yes; I think it does, as I remember. Let us see if I can find it here.

Senator COUZENS. They never had any loans. How could there be charge-offs?

Mr. LONGLEY. It was not that. It was liability of the Trust Co. Shall I read it?

Mr. PECORA. Please.

Mr. LONGLEY (reading):

In December of 1929 the Guardian Trust Co. had sold the childrens' fund of Michigan \$1,560,000 in mortgages. The Trust Co. agreed that if payments on the principal of the same should in any year be less than \$150,000 it would repurchase from the fund sufficient mortgages to bring the principal payments received during the year up to that amount.

It also agreed to substitute new mortgages in good standing for any on which interest payments were 3 months or more in arrears, or principal 6 months or more in arrears.

At the present time the principal balance due under the mortgages held by the fund is approximately \$1,200,000.

A working agreement was effected in August 1932 to the effect that the Trust Co. pay, and continue to pay all delinquent interest and taxes, and repurchase from time to time mortgages in default, it being expressly stipulated by the childrens' fund that this forbearance waives none of their rights under the original agreement.

In the year 1934 something like \$800,000 of mortgages mature. Under the arrangement last mentioned, however, and for so long as it continues, the Trust Co. is relieved of finding the amounts in cash required under the original guarantee. However, we are obliged to take up defaulted mortgages and pay delinquent interest and taxes, so that there is the question of some shrinkage in the fund.

That is the loss, possibly, on that guarantee.

Senator COUZENS. That is an estimated loss.

Mr. LONGLEY. It goes on. Senator. [Continuing reading:]

It is reported to your committee that the particular mortgages which were put into that account were the very best at the time. Therefore, the shrinkage should, perhaps, be less than in the general average of mortgages. Your committee recommends a reserve of 5 percent of the present face value, or \$60,000, to be set up in the reserve.

That is how they came to figure it up.

Mr. PECORA. Mr. Longley, do you recall a conference that you had with the Commissioner of the State Banking Department of Michigan shortly prior to March 15, 1933?

Mr. LONGLEY. Yes.

Mr. PECORA. What took place at that conference?

Mr. LONGLEY. We are looking for instructions from the banking department, really. There were several of us—counsel for the Trust Co. and the treasurer and one or two of the more influential directors, called upon Mr. Reichert and discussed the situation with him. We tried to explain our problems, which he said he was very familiar with. He stated that as far as he was concerned, until that banking holiday was ended there was not anything that he could do. The Trust Co. felt that it had been very badly hurt over the publicity in connection with the holiday and in connection with our general position, but we met with Mr. Reichert, the banking commissioner. I think there is something in the minutes that will give you that more in detail. That is my general recollection.

Mr. PECORA. I have before me an extract of the minutes of the meeting of the executive committee of the board of directors of the Union Guardian Trust Co., held on March 15, 1933, from which it appears that at that meeting you made a report to the executive

committee of your conference with the banking commissioner. I will read the following excerpt from the minute book of that meeting of the executive committee:

Mr. Longley stated that the report of the examining committee of our board was presented to the commissioner of the State banking department. That there were also present his deputy, Mr. Taylor, and Mr. Gorman, an assistant attorney general.

Mr. Longley stated that he was accompanied by Mr. Haberkorn, Jr., Mr. Maurice, Mr. Harris, and Mr. Bulkley. That the commissioner and his deputy examined the report briefly and asked what the representatives of the company wanted to discuss with him.

Mr. LONGLEY. I was thinking of another meeting.

Mr. PECORA. Let me finish.

Mr. LONGLEY. All right.

Mr. PECORA (continuing reading):

Then Mr. Longley, Mr. Maurice, and Mr. Bulkley presented the problems confronting the Trust Co. under the present conditions, and the lack of cash for operations, with which situation the commissioner said he was familiar. The representatives of the company told him that they would like to go into the whole situation in detail, and had come out for that purpose. That Mr. Harris had prepared the figures showing the cash deficit resulting from operations in February, which figures showed a cash deficit of approximately \$56,789. The commissioner then made a statement that his position was that he would do nothing to interfere with the operation of the banks or trust companies during the Governor's holiday, nor would he consider, in any event, the appointment of a receiver for any such institutions, giving as his reason that he was advised by counsel that he had no power to do so. He then stated that he would receive our report, and in the usual course would examine it and have his staff make an examination of the Trust Co., but not during the holiday. He stated that he was familiar with the Trust Co.'s operations as they had been carried on under the restrictions of the holiday, and that the company should continue to function in this way for the present, stating the he was assured the Governor would not permit the holiday to end until remedial legislation was enacted by the legislature, under which the banking commissioner could take some definite action.

This closed the conference.

Mr. LONGLEY. That is right.

Mr. PECORA. What was the other conference you had in mind?

Mr. LONGLEY. A conference later in connection with the conservatorship, after the law was passed.

Mr. PECORA. What was the substance of that conference?

Mr. LONGLEY. A general discussion, and finally a discussion as to the appointment of a conservator for the Trust Co. under the new legislation which had been finally passed by the Michigan Legislature.

Mr. PECORA. At that time you and the other officers and directors of the Trust Co. were interested in the enactment of remedial legislation by the Michigan State Legislature, were you not?

Mr. LONGLEY. You mean at the time of the first meeting you spoke of?

Mr. PECORA. About this general period, in the early part of 1933?

Mr. LONGLEY. Yes, indeed. That is exactly what we were interested in, very much.

Mr. PECORA. What particular legislation were you desirous of having enacted?

Mr. LONGLEY. It finally culminated in that Payne-McNitt bill, which permitted opening under restrictions and operating under restrictions. It permitted a conservator.

Mr. PECORA. Did you trust company, for the purpose of furthering its interest in legislation, employ anybody to represent it at the State capitol?

Mr. LONGLEY. No; not that I know of. Judge Lacy, who was one of the directors of the bank—I do not think he was a director of the group. I think he was a director of the Group Co.—spent a great deal of time in Lansing, and I believe had a great deal to do with writing that bill, and getting it through. That is the general understanding around Detroit, that he did.

Mr. PECORA. I have before me what purports to be a photostatic copy of a memorandum transmitted to you by Mr. John N. Stalker under date of February 1, 1933, which reads as follows [reading]:

Our executive committee, as you know, is of the opinion that some arrangement should be made to keep this company posted on pending legislative matters, and it seems to us that other units of the group would desire to be similarly informed. There is also at least one piece of legislation relating to the taxability of life insurance, which we would like to see put through at the present session.

The attached memorandum indicates comments from Mr. Henry Bulkley, Mr. Hal H. Smith, and Mr. George H. Klein.

My own idea and recommendation would be as follows:

1. That the arrangement should be a group arrangement.
2. That Mr. Klein's recommendation as to the manner of handling the problem should be adopted in principal.

I believe that a man of the type Mr. Klein suggests would be far more effective than a young lawyer, who might be sent to Lansing to live during the continuance of the session. The latter arrangement, it seems to me, would cost a good deal—a lawyer of the experience and force necessary to accomplish what we have in mind being necessarily quite expensive. A less-expensive man would perhaps not be able to accomplish a great deal. It may be questioned as to whether it would be desirable to have our employee a lawyer at all. The man selected would be retained primarily as a fact finder, which would leave us entirely free to deal with any specific problems in the manner suggested by Mr. Smith or in any other way that seemed wise. At the same time a man of the type proposed would, by special arrangement with us, be able to exert no small degree of influence in the molding of prospective legislation and in obtaining the passage of the same, or perhaps the contrary. It seems to me that the group, if it should approve the general idea, might advantageously inquire through Mr. Gorman or other channels as to Dr. Webber or any other available material.

As you know, it is the view of the committee that a conclusion ought to be reached at the very earliest possible date.

Do you recall that memorandum?

Mr. LONGLEY. I remember the letter; yes.

Mr. PECORA. Who is the Mr. Gorman referred to here?

Mr. LONGLEY. I suppose it was Mr. Gorman in Lansing.

Mr. PECORA. An assistant attorney general?

Mr. LONGLEY. No.

Mr. PECORA. Who?

Mr. LONGLEY. I don't know. It might have been Mr. Gorman. Whether it was he or his brother I do not know.

Mr. PECORA. Who is Mr. Gorman that you refer to?

Mr. LONGLEY. There is a Mr. Gorman in Lansing in connection with the Lansing bank.

Mr. PECORA. Who is his brother?

Mr. LONGLEY. That is a unit of the Guardian Group. His brother was—he is since dead—in the attorney general's office.

Mr. PECORA. Was he the assistant attorney general referred to in your report to the executive committee of March 15 last of your conference with the State banking commissioner?

Mr. LONGLEY. Yes; that is right; he was.

Mr. PECORA. I have before me what purports to be a photostatic copy of another memorandum addressed to you by Mr. John N. Stalker under date of February 6, 1933, reading as follows—

Mr. LONGLEY (interposing). Pardon me. What was the date of the other one?

Mr. PECORA. February 1, 1933. This one of February 6, 1933, reads as follows [reading]:

Referring further to my memorandum of February 1 with respect to the proposed arrangements to be made by the Group at Lansing, Dr. Louis Webber referred to therein was in town today discussing with Mr. Klein certain matters relating to the real estate mortgage bond commission, of which both he and Mr. Klein are members. I met Dr. Webber in Mr. Klein's office, and without any implied commitment of any sort, discussed with him the possibility of getting him to represent the Group. As previously stated, Dr. Webber is secretary of the Real Estate Association, is a small-town man and is so regarded, and is a resident in Lansing, and though other activities already has or is getting the various contacts necessary to do a good job.

Dr. Webber's idea of compensation would be a retainer of \$500 and payment of \$160 a month during the period that the legislature is in session, plus out-of-pocket disbursements for telephone calls, traveling expenses, etc. Any entertainment which he might see fit to do (and he said that there would be some) would be taken care of out of the retainer or monthly payment.

Should we desire Dr. Webber's active assistance either in getting proper legislation passed or in preventing improper legislation from being passed, he suggested \$500 per bill—that matter could, of course, be left entirely open and would be subject to negotiation should his assistance be desired.

I would suggest that it might be desirable and helpful to get in touch with Mr. Klein both as to the wisdom or necessity of some such arrangement as that proposed and as to Dr. Webber's qualifications. While I have known Dr. Webber slightly and have seen something of his work through the Michigan Association, Mr. Klein knows him a good deal better than I do.

(Signed) JOHN N. STALKER,
Vice Chairman.

Do you recall that memorandum, Mr. Longley?

Mr. LONGLEY. Yes; I recall it.

Mr. PECORA. Was any arrangement made with Dr. Webber to represent either the trust company or the Guardian Detroit Union Group?

Mr. LONGLEY. No, sir; as far as I know.

Mr. PECORA. In securing legislation that was desired or preventing the enactment of legislation that was regarded as improper?

Mr. LONGLEY. Not as far as I know, Mr. Pecora.

Mr. PECORA. Did you have any contact with Dr. Webber for the purpose of arriving at a judgment as to whether or not he should be retained by either the trust company or the Group as per Mr. Stalker's suggestion?

Mr. LONGLEY. I was not even interested. As far as I know, it died right there.

Mr. PECORA. You mean upon receipt of Mr. Stalker's memorandums to you which I have just read the matter went no further?

Mr. LONGLEY. Yes; as far as I am concerned.

Mr. PECORA. Well, so far as anyone else in the Group was concerned, what, if anything, was done about it?

Mr. LONGLEY. I don't think anything, or I would have known about it. But I never heard anything more about it after that second communication.

Mr. PECORA. Did the group engage anybody to look after its interests insofar as they might be affected by pending legislation?

Mr. LONGLEY. Not that I know of. I think that our own officers kept in close contact with the Lansing situation, that went very slowly, and it dragged and dragged, and we were very anxious to have some remedial legislation that would permit us to operate under a conservatorship in some limited way. I think that that was what Mr. Stalker had in mind when he wrote those communications. He was anxious to see if things could not be pushed along and some action secured.

However, I think that most of it was worked out through Judge Lacy, whom I have already mentioned, and Mr. Maurice spent a good deal of time in Lansing in connection with general things, and some of the other officers.

Mr. PECORA. Who is Mr. A. Quay Beyer?

Mr. LONGLEY. Who is he now?

Mr. PECORA. Who was he?

Mr. LONGLEY. He is living at Detroit. At one time he was a junior officer of the Guardian National Bank of Commerce. I believe.

Mr. PECORA. You knew him, didn't you?

Mr. LONGLEY. Oh, yes; very well.

Mr. PECORA. You say he was a junior officer of the Guardian National Bank of Commerce?

Mr. LONGLEY. I think so. I don't know just exactly what his official position was; but he had to do with mortgages. I know that.

Mr. PECORA. Mr. Frank Maurice was an officer of the Union Guardian Trust Co.?

Mr. LONGLEY. Yes.

Mr. PECORA. I show you what purports to be a photostatic reproduction of an intra-group and interoffice memorandum on the letter-head of the Guardian Detroit Union Group, Inc., addressed to Mr. Frank Maurice from Quay Beyer. Will you look at it and tell me if you recognize it as a true and correct copy of such a communication sent by Mr. Beyer to Mr. Maurice?

Mr. LONGLEY (after perusing document). Yes. I don't know that I ever saw that before, but I think that is Mr. Beyer's writing, and if you found it in the files it is probably his.

Mr. PECORA. I offer it in evidence.

The CHAIRMAN. Let it be admitted.

(Photostat of hand-written memorandum from A. Quay Beyer to Frank Maurice, filed Apr. 18, 1933, was thereupon designated "Committee Exhibit No. 93, Jan. 17, 1934", and same appears immediately following where read by Mr. Pecora.)

Mr. PECORA. The document received in evidence as committee's exhibit no. 93 of this date reads as follows [reading]:

To Mr. Frank Maurice
From Quay Beyer

Supplementing my memo. of March 18 I would like to set forth briefly a few of the other things I have in mind which might work in with the plan outlined.

When the deadlock on the mortgages is broken then there will be the property to be disposed of. If I may go back for a moment to the beginning of the decline and imagine that someone designated by the trust company were well

acquainted with, say, 10 of the larger corporation's employment managers and that this man had been introduced under very favorable circumstances by the president of the corporation who sits on our board. If the man designated had had a list of our mortgages and land contract purchasers and could have interceded for them, would it not have made a material difference in the amount of collections and income?

It seems to me the people against whom we have mortgages should be the first ones to be permitted the opportunity of repurchasing perhaps on land contract. If we can secure jobs for them we can start to thaw out a lot of the so-called frozen assets. We cannot get them all, of course, but I am wondering if it is not worth a trial. We are not getting any now and I certainly would not be afraid to tackle the job, which could be worked in with new business calls, and in that way would not be any additional expense—or to get started some overtime work could be done.

For example, let's assume Chrysler Co. employ 30,000 men at the peak and 5,000 at low ebb because they are compelled to keep a number for maintenance, etc. Let's say we secured an infinitely small percentage of these. Would it not be an advantage gained?

I don't think it would be a very elaborate program from an expense standpoint. After the contact had been properly made with the employment managers, then periodic check-ups could be made even when conditions are improved.

Understand, if you please, it is not my idea to create an employment agency or a welfare department (however, I do think it would automatically do worlds of good for a lot of deserving people and perhaps save a lifetime of savings for some), and for that reason the individual for whom we would intercede should not even know of it.

Some of these details will of course work themselves out. I would like very much to get your reaction on the above?

I really think our shop is in a better position to do this than any other organization in town, because we have so many industrialists on our board and I am sure they would be willing to cooperate.

We have in many instances contacted the purchasing agents to secure orders for firms that we hoped would give us accounts. Now why not the employment managers to keep men who theoretically will give us an account by paying on their accounts?

A. QUAY BEYER.

Was there anything done about that?

MR. LONGLEY. Yes; I think Mr. Beyer went ahead and tried to get some of these poor chaps who could not pay on their mortgages jobs. I don't know how far he got with it, but I know he worked hard on it trying to get them employment. I thought it was a pretty good scheme. Jobs were pretty scarce at that time, however, and nothing very important happened.

MR. PECORA. Referring again to the examination of the trust company made by the State examiner as of September 14, 1931, it appears in his report that Mr. Hudson, the examiner, prepared that there is a liquidating statement of condition which is entitled "Examiner's Estimate of Bank's Condition", and in this estimate or purported estimate he set up surplus, undivided profits, and reserve accounts, from which he deducted estimated losses which he believed the bank might have to sustain, and reached a net deficiency of—

MR. LONGLEY (interposing). What was the date of that examination?

MR. PECORA. The examination of September 14, 1931. He reached a net deficiency of \$478,241.54. That was taking into account capital stock of the bank \$5,000,000, undivided profits \$591,345, and other items carrying the total up to \$5,963,919.85, from which he deducted estimated losses aggregating \$6,442,169.39, leaving a net deficiency of \$478,249.54. Are you familiar with that report?

MR. LONGLEY. I am not; no.

Mr. PECORA. What is that?

Mr. LONGLEY. I am not.

Mr. PECORA. Have you a copy of the report of September 14, 1931?

Mr. LONGLEY. No, I have not. In fact, my memorandum of it shows that no report was ever received from the banking department. I wondered whether you were talking about the 1932 report.

Mr. PECORA. No; the report as of September 14, 1931, by Mr. Hudson, the same State examiner.

Mr. LONGLEY. This is what my memorandum says, that the trust company gave me:

Probably check of directors' examination. No report being received from the banking department.

I never saw it.

Mr. PECORA. In Mr. Hudson's report of his examination of the trust company as of August 8, 1932, he reported a net deficiency arrived at in the same way of \$2,915,889.34, as I read to you before.

Mr. LONGLEY. Yes; that is right.

Mr. PECORA. Which compared with the net deficiency as of September of the preceding year of \$478,000 odd.

Mr. LONGLEY. Of course, after the report of September 14, 1931, I do not believe I have ever seen the report of the banking department, but on our own investigations we made charge-offs at the end of the year of \$2,162,746.64 and added certain reserves in the amount of \$50,600. That was not in furtherance of the State banking department examination, but in furtherance of our own investigations.

Mr. PECORA. I think that is all, Mr. Longley.

Senator COUZENS. I would like to ask a question before Mr. Longley leaves the stand.

When the banks closed Saturday noon on February 11, that was the usual closing time, was it not?

Mr. LONGLEY. Yes, sir.

Senator COUZENS. When they closed they had been operating normally up to then, had they not?

Mr. LONGLEY. Exactly.

Senator COUZENS. What happened between February 11 at 12 o'clock noon and midnight of the 13th when the Governor issued his closing order, to make you believe it was necessary to close?

Mr. LONGLEY. It did not all happen between those dates.

Senator COUZENS. Then you were not operating normally at noon on the 11th, were you?

Mr. LONGLEY. Yes; we were operating normally, but during the previous week, while we were in Washington, we would get continually calls, repeated calls from people in New York and Chicago, which gave us a great deal of concern.

Senator COUZENS. What were they?

Mr. LONGLEY. Oh, inquiries that indicated that there was this very large application; the news was out that the trust company was making this very large application.

Senator COUZENS. That was not quite the fact, because it was the group that was making the application.

Mr. LONGLEY. That is true. But we had been showing large bills payable, and I think that the depositors generally recognized the

fact of the lack of liquidity of the trust company at that time, and we felt that we did not dare to go further with it.

Senator COUZENS. So up until noon on February 11 you were not particularly afraid of large withdrawals?

Mr. LONGLEY. I do not think there were any that amounted to anything.

Senator COUZENS. I say, you were not afraid of them at that time, because you were operating and paying the depositors?

Mr. LONGLEY. That is right.

Senator COUZENS. Then between noon of the 11th and the night of the 13th of February you got more rumors and reports that if you opened up there might be withdrawals?

Mr. LONGLEY. Oh, yes. It was well known around Detroit what the situation was, because we took so many people into our confidence. We necessarily had to, to try to get those funds; and our directors of course could not keep it entirely to themselves, and it was talked around. There just wasn't a chance after our meeting over that week end.

Senator COUZENS. So that most of the fear, then, and the rumors developed from noon of the 11th until midnight of the 13th; is that correct?

Mr. LONGLEY. A large part of it; yes. I cannot say quite most of it, because—

Senator COUZENS. I said "most of it," because, as a matter of fact, there were no large withdrawals demanded before that.

Mr. LONGLEY. That is true.

Senator COUZENS. There is just one question that is not particularly important for the record, but Mr. Leyburn testified to some statements that I was alleged to have made to you and Mr. Walsh, I think it was, when you came to the Senate to see me on February 6 or 7—

Mr. LONGLEY. It was Thursday, February 9.

Senator COUZENS. Can you tell the committee just what I said at that time, if you recall it?

Mr. LONGLEY. Well, I recall some of the things you said; yes.

Senator COUZENS. Will you tell the committee all of it, if you can tell all of it?

Mr. LONGLEY. I do not know that I can remember them all. Colonel Walsh and I called upon you outside the Senate chamber, and we tried to describe the situation and we tried to explain what our application was to the R.F.C., and the seriousness of the situation in Detroit. You stated to us that you had heard that we had asked the R.F.C. people not to let you know about the application. I remember I tried to explain to you that that was the first I had heard of it, if it were true, and I tried to tell you that we were very carefully not asking you or Mr. Chapin or any of our Congressmen or other official people here in Washington to participate in this thing, due to the fact that I had in my bag at the time this article by Mr. Flynn in Harper's Magazine, criticizing Mr. Chapin for having secured a loan for the Union Guardian Trust Co., and I guess Mr. Chapin had probably never heard of it. We felt that with Mr. Leyburn's participation in that application—he really gave as much to the conception of that plan as anyone else—we had strong sup-

port. We also felt that the seriousness of the situation and the necessity for the loan going through made it just something that could not be turned down. I tried to explain that to you, as I remember, and you were not very interested. We asked if you would speak to Senator Vandenburg, and we proceeded to tell him the whole story.

Senator COUZENS. I want to say that, so far as I was concerned, I thought you were entirely right in not coming to any political representatives in Washington, and I thought that I ought not to have been approached, and so I did not find any fault with you for that reason: but what I wanted particularly was to have you say as to whether or not I ever said to you that I would condemn the loan from the housekeepers.

Mr. LONGLEY. Oh, no; you did not say that to me.

Senator COUZENS. That is what Mr. Leyburn testified to the other day.

Mr. LONGLEY. Oh; I did not understand that.

Senator COUZENS. That is what I wanted to straighten up, because I thought he was mistaken; he was depending upon rumor.

Mr. LONGLEY. I understood that you said that later.

Senator COUZENS. I said that in the White House, but not to you.

Mr. LONGLEY. Not to me, no; you did not indicate what you would do. You said you were in a quandary as to whether you should go one way in support of these institutions or let things slide the other way and let them go. I have forgotten what your language was.

Senator COUZENS. I guess it was printable, was it not?

Mr. LONGLEY. Oh, yes; quite printable.

(Witness excused.)

TESTIMONY OF CHARLES S. MOTT, FLINT, MICH.

The CHAIRMAN. You do solemnly swear that the testimony you will give at this hearing will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. MOTT. I do.

Mr. PECORA. Please state your full name.

Mr. MOTT. Charles S. Mott.

Mr. PECORA. Your address, Mr. Mott?

Mr. MOTT. Flint, Mich.

Mr. PECORA. And your business or occupation?

Mr. MOTT. What I have been doing practically for the past year?

Mr. PECORA. What you regard as your business or occupation.

Mr. MOTT. I don't know.

The CHAIRMAN. What has it been?

Mr. MOTT. Most of my time during the past year has been defending myself in lawsuits.

Senator COUZENS. So that your occupation is that of a defendant? (No response.)

Mr. PECORA. What is your most active business affiliation? I will put it that way.

Mr. MOTT. Well, I am a director of General Motors and a member of the executive committee, but I am not active in that corporation.

Mr. PECORA. You were an officer or director of the Guardian Detroit Union Group, were you not?

Mr. MOTT. I was a director, not an officer.

Mr. PECORA. You were a director from its inception?

Mr. MOTT. From the beginning of the Guardian Group.

Mr. PECORA. That was in 1929?

Mr. MOTT. Yes.

Mr. PECORA. As a director were you a member of any of the standing or special committees of the board of directors of the group?

Mr. MOTT. I was.

Mr. PECORA. Which committee or committees thereof?

Mr. MOTT. If I recollect correctly, I think it was the executive committee and the so-called "advisory committee."

Mr. PECORA. Did you attend meetings of the board of the group with any degree of regularity?

Mr. MOTT. Yes, sir.

Mr. PECORA. And also of the executive committee of the board?

Mr. MOTT. Yes, sir.

Mr. PECORA. And the advisory committee of the board?

Mr. MOTT. Yes, sir. There were very few meetings of the latter, though.

Mr. PECORA. Mr. Mott, I want to examine you particularly with respect to a certain transaction concerning which you gave some testimony before the so-called "one-man grand jury" investigation held in the past year in Detroit; and the transaction I have in mind is one in which there was involved a transfer by you to Mr. Covington of 30,000 shares of the stock of the group. Do you recall the transaction?

Mr. MOTT. Yes, sir.

Mr. PECORA. You did transfer that 30,000 shares to Mr. Covington?

Mr. MOTT. I sold him 30,000 shares; yes, sir.

Mr. PECORA. On what date?

Mr. MOTT. I think it was about December.

Mr. PECORA. Of what year?

Mr. MOTT. 1932.

Mr. PECORA. 1932?

Mr. MOTT. Yes.

Mr. PECORA. Will you give the committee briefly the terms of the sale of that stock by you to Mr. Covington?

Mr. MOTT. I made a very complete statement concerning the transaction at the so-called "grand jury" hearing in Detroit. I wrote it out very fully and completely. May I read it?

Mr. PECORA. Can you not give the committee the essential facts with regard to that sale of the stock to Mr. Covington, without doing so from a prepared statement, Mr. Mott?

Mr. MOTT. Well, it really covers so much that I would have to begin at the beginning to really cover the ground.

Mr. PECORA. You do recall that the sale took place on December 14, 1932?

Mr. MOTT. I think that was the date.

Mr. PECORA. And that it involved 30,000 shares of Group stock?

Mr. MOTT. Yes, sir.

Mr. PECORA. And that the purchaser was Mr. Covington?

Mr. MOTT. Yes, sir.

Mr. PECORA. At that time Mr. Covington was executive vice president of the Guardian National Bank of Commerce, was he not?

Mr. MOTT. Yes, sir.

Mr. PECORA. And the Guardian National Bank of Commerce was the largest banking unit of the Guardian Detroit Union Group, was it not?

Mr. MOTT. Yes, sir.

Mr. PECORA. And was Mr. Covington also at that time a director of the group as well as executive vice president of the Guardian National Bank of Commerce?

Mr. MOTT. I believe he was.

Mr. PECORA. Mr. Mott, how did that sale originate?

Mr. MOTT. As I say, I will have to go back to the beginning in order to cover the point. I became acquainted with Mr. Covington especially when he came with the National Bank of Commerce at the Boulevard office up in the north end of Detroit. He was put in charge of that office there.

Senator COUZENS. What year?

Mr. PECORA. 1929.

Senator COUZENS. Was it 1929?

Mr. MOTT. Probably at the time that Talbott left. It was several years ago, when he conducted the affairs of that office so well that he received the commendation of all those who were in contact with his work; and I was fairly closely in contact with it, because I was a member of a committee which went over the loans that were made from that office before they went to the board down town, and I was so impressed with his work that I was anxious to see him placed in a responsible position at the main office of the National Bank of Commerce located in the Union Trust Building, and ultimately he was placed there as operating vice president or executive vice president at the main office.

Subsequently the National Bank of Commerce and the Detroit Guardian Bank were combined. That was in the early part of 1932; and Mr. Covington, by virtue of the record that he had made up to date, was made executive vice president of the National Guardian Bank of Commerce and he made a splendid record there. I had great confidence in his ability and integrity. A great many other things happened in the course of time. I had had sad experience in banking in Flint in 1929 and had been desirous ever since of reducing my investment and the time I had to give to the banking business, because I wanted to get out of the presidency of the bank at Flint and these various other connections in Detroit that were taking a great deal of time, and I had explained that to Mr. Covington; and along in December he asked me if I wanted to sell him some of my stock.

Mr. PECORA. Along in December 1932 Covington asked you if you would sell him some of your stock?

Mr. MOTT. Yes, sir; because he knew that I wanted to lessen my interest in banking.

Mr. PECORA. Could you not have lessened your activities in banking without reducing your stock holdings in the Group?

Mr. MOTT. Well, naturally I could have resigned from any position or activity at any time.

Mr. PECORA. How many shares of Group stock did you own at the time Mr. Covington came to you and asked you, as you said, sometime in December of 1932, if you would sell him part of your holdings in the Group stock?

Mr. MOTT. Approximately 42,000 shares.

Mr. PECORA. When Mr. Covington came to you and asked you that question, what was your reaction to it?

Mr. MOTT. I felt that Mr. Covington was well qualified to carry on the interests of the bank and that I would be very glad to abdicate in his favor, as it were, and sell him a large block of stock.

Mr. PECORA. Were the terms of sale discussed between you?

Mr. MOTT. Yes.

Mr. PECORA. What was the substance of the discussion?

Mr. MOTT. I sold it to him at the market.

Mr. PECORA. Which was then what?

Mr. MOTT. Eight.

Mr. PECORA. \$8 a share?

Mr. MOTT. Yes.

Mr. PECORA. How was the stock paid for by him?

Mr. MOTT. With a note.

Mr. PECORA. For the full amount?

Mr. MOTT. Yes, sir.

Mr. PECORA. And that was on the initiative of Mr. Covington?

Mr. MOTT. That was what?

Mr. PECORA. On Mr. Covington's initiative that that transaction was had?

Mr. MOTT. Yes.

Mr. PECORA. Not on yours?

Mr. MOTT. No, sir.

Mr. PECORA. Mr. Covington was desirous of buying a large block of that Group stock and you accommodated him by selling him 30,000 shares of your stock and received from him his note for the full purchase price?

Mr. MOTT. Yes, sir.

Mr. PECORA. That was a note, then, for \$240,000?

Mr. MOTT. Yes, sir.

Mr. PECORA. Did the note bear interest?

Mr. MOTT. Yes, sir.

Mr. PECORA. For what period of time was the note made?

Mr. MOTT. I have the note here. I have forgotten right now. [After referring to note:] It was a demand note.

Mr. PECORA. Has any interest been paid on account of that note?

Mr. MOTT. No, sir.

Mr. PECORA. Has any demand been made for payment by you in whole or in part?

Mr. MOTT. No, sir.

The CHAIRMAN. The committee will take a recess until tomorrow morning at 10 o'clock.

(Whereupon, at 4:05 p.m., a recess was taken until tomorrow, Thursday, Jan. 18, 1934, at 10 a.m.)

Union Guardian Trust Company, Detroit, Mich., General Journal and Statement of Condition, December 31, 1932

COMMITTEE EXHIBIT NO. 84, JANUARY 17, 1934

Resources	Debits	Credits	Balances
Cash	\$12,477.81	\$18,392.19	\$10,906.81
Cash Items			1,571.00
Due from Units of Group			3,722,409.03
Due from Other Banks	294,277.15	391,935.51	2,539,190.23
Total Cash and Due from Banks			6,274,077.07
Demand Loans—Secured		284,815.90	242,549.85
Demand Loans—Unsecured		7,929.21	20,200.00
Time Loans—Secured	547,602.41	959,236.63	6,025,640.94
Time Loans—Unsecured			97,569.17
Past Due Bills		1,344,939.17	1,337,767.41
Rent Notes Receivable			18,704.19
Advances to Trusts—Class A			2,358,681.43
Advances to Trusts—Class B			393,935.47
Mortgage Loans in Office	7,354.39	4,197,926.89	3,903,849.37
Mortgage Loans Made for Trust Acc'ts	3,696.21	1,105,582.42	884,188.57
Mortgage Loans with State Treasurer			217,946.33
Mortgage Loans—Miscellaneous			
Mortgage Loans in Office Pledged "R"	50.00	30.00	8,043,205.10
Mortgage Loans in Office Pledged "R" #2	5,303,335.31	7.00	5,303,328.31
Mortgage Loans—Metro. Certificates			138,037.18
Mortgage Loans—Ass'ts. Misc.			589,784.39
Second Mortgage Loans in Office			655,565.40
Land Contracts		161.08	2,111,409.55
Total Loans			32,342,362.66
U.S. Securities			103,973.50
Municipal and Other nontaxable Sec.		98,793.12	
Other securities		1,347,681.66	415,467.78
Capital Stock Subsidiaries			1.00
Securities Pledged	1,446,474.78		3,908,093.12
Total Securities			4,427,535.40
Other Real Estate	2,283.46		5,115,318.61
Leasehold Improvements (Less Dep. \$—)	5,534.86	10,893.19	57,044.07
Furn. & Fixtures (Less Dep. \$—)		3,373.62	199,875.24
Mechanical Eqpt. (Less Dep. \$—)		2,082.87	53,252.89
Mechanical Eqpt. Bldg. (Less Dep. \$—)	200.00	9,429.34	3,776.88
Customer Liab. under Letters of Credit			22,225.00
Rent Receivable	3,610.26	4,277.50	74,424.66
Accounts Receivable	1,621.67	14,192.87	61,092.20
Other Resources			
Accrued Income Receivable			2,281,954.66
Debits & Credits Fwd.	7,628,518.31	9,801,680.17	
Total Resources			50,915,939.34
Unpledged Eligible Paper			
Unpledged U.S. Securities	103,000.00		
Unpledged Other Securities	415,000.00		
Total	518,000.00		
Total Non-Accrual Loans	22,763,000.00		
Total Non-Accrual Securities	1,358,000.00		
Pledged Assets (For Bills Payable):			
Coll. Loans	6,388,000.00		
Mtge. Loans	13,346,000.00		
Land Contracts	1,791,000.00		
Loans Sold, 12-30-32	1,223,000.00		
Interim Certificates, 12-30-32	96,000.00		

Union Guardian Trust Company, Detroit, Mich., General Journal and Statement of Condition, December 31, 1932—Continued

COMMITTEE EXHIBIT NO. 84, JANUARY 17, 1934

Liabilities	Debits	Credits	Balances
Debits and credits forwarded	\$7,628,518.31	\$9,801,680.17	
Capital			\$5,000,000.00
Surplus	500,000.00		2,000,000.00
Undivided Profits	869,888.19	500,000.00	382,059.21
Current Period Profits			
Total Capital Funds			7,382,059.21
Reserves:			
Loans			27,942.32
Securities			536,352.89
Contingencies			313,731.22
Interest			1,099,317.02
Total Reserves			1,977,343.45
Collns. on Assigned Loans			59.10
Trust Funds:			
Trust Funds Specially Deposited	9,068.22	9,793.62	1,015,127.42
Class "A"	498,968.71	435,309.58	3,719,753.64
Total Class "A" Funds			4,734,940.16
Class "B":			
State Funds			3,840,871.35
Other Public Funds			86,426.00
Due to Banks			203,048.00
Due to Units of Group			4,901,372.57
Due to Others	13,781,649.39	11,726,732.26	
Total Class "B" Funds			9,031,717.92
Total Trust Funds			13,766,658.08
Certificates of Deposit—Demand:			
State Funds			850,000.00
Other Public Funds			16,000.00
Due to Banks			734,297.51
Due to Units of Group			1,376,008.15
Due to Others	18,834.59	9,523.28	13,064,784.79
Total Demand Deposits			28,807,748.53
Savings Deposits—Individual	736.60	123.00	95,361.16
Certificates of Deposit—Time			
State Funds			
Other Public Funds			
Due to Banks			135,000.00
Due to Units of Group			1,400,491.60
Due to Others			
Total Time Deposits			1,630,852.76
Bills Payable—R.F.C.:			
# 1	1,568.52		4,421,131.18
# 2			5,057,770.28
Bills Payable & Rediscounts—Units of G			
Bills Payable—Other			
Mortgages Payable			352,145.00
Bonds Sold under Rep. Agt			
Total Borrowed Money			9,831,046.64
Uncollected Rent	60,771.17	3,610.26	74,424.66
Liability under Letters of Credit			22,225.00
Accounts Payable	392.51	355.05	5,140.04
Other Liabilities:			
Accrued Expense Payable			185,099.23
Accrued Ledger Control (T.B.F.)	132,245.24	{ 869,888.19	
Net Suspense Balance		{ 145,626.04	
Total Debits and Credits	23,502,641.45	23,502,641.45	
Total Liabilities			50,915,939.34
Accts. Pay. Real Est. Comm	55.00		2,908.87
Key Deposits—Employees			53.00
Key Deposits—Tenants			1,095.14
Craft. cpns. redeemable	211.80		615.45
Electricity tax	125.71	.55	121.58
Tr. Co. Emp. Locker Key Dep. a/c			346.00
			5,140.40

Union Guardian Trust Company, Detroit, Mich., General Journal and Statement of Condition, December 31, 1932—Continued

COMMITTEE EXHIBIT NO. 84, JANUARY 17, 1934

DUE FROM BANKS

Bank	Debit	Credit	Balance
<i>Trust accounts</i>			
Central Hanover Bk. & Tr. Co., New York			\$10,212.51
Chemical Bk. & Tr. Co., New York	\$24,674.32	\$6,848.98	295,483.52
Manufacturers' Trust Co., New York			8,263.38
Cont'l Illinois National Bk. & Tr. Co., Chicago	75.80	100.80	756,330.33
Straus Nat'l Bk. & Tr. Co., Chicago, Ill.			
First Nat'l Bank, Detroit	102,748.27	51,138.32	692,862.95
1st Wayne Nat'l Bk., Det. Rec. Bldg. A/C			
Guard Nat'l Bk. of Com. (uptown off.), Detroit	2,781.82	136,196.27	1,505,681.93
Can'd'n Bk. of Commerce, Windsor, Ont.	44.55	23.73	18,365.89
Dansard State Bank, Monroe, Mich.			
1st Nat'l Bk. & Tr. Co., Flint, Mich.	28.16		6,087.66
1st St. Savings Bank, Birmingham, Mich.		131.25	17,624.57
Grosse Pointe Svg's Bk., Grosse Pointe, Mich.			
Mt. Clemens Svg's Bank, Mt. Clemens, Mich.	9,793.62	9,068.22	1,015,127.42
Special C/D's & Accounts			408,900.00
Sundry Cert. of Deposit			
Total	140,146.54	203,507.57	4,734,940.16
<i>General Accounts</i>			
J. P. Morgan & Co., New York			3,557.42
Guaranty Trust Co., New York	12.95	1,012.49	870.40
Nat'l. City Bank, New York			5,763.00
City National Bank & Trust Co., Chicago			5,576.31
Union Trust Co., Pittsburgh, Pa.	12.13		7,498.22
Mt. Clemens Svgs. Bk., Mt. Clemens, Michigan			5,962.11
Highland Pk. St. Bk. Special account	486.62	486.62	2,500.00
Guard. Nat'l. Bk. of Com., Detroit	139,554.56	181,963.37	1,339,215.66
Dansard State Bank, Monroe, Michigan			1,909.49
1st St. Svgs. Bank, Birmingham, Michigan			11,838.62
Items in Transit			
Sundry Bks. & Bkrs.	14,064.35	4,965.46	116,967.87
Sundry Cert. of Deposit			
Total	154,130.61	188,427.94	1,526,659.10

RESERVE POSITION

Account	%	Amount Required
Certificates of Deposit—Demand	25	4,010,272.61
Certificates of Deposit—Time	5	76,774.58
Trust Funds—Class B	10	903,171.79
Special Deposits	12	
Monthly Payment Mtge. Deposits	12	11,443.34
Total Reserve Required		5,001,662.32
Total Reserve Held		1,539,136.91
Deficit, Reserve		3,462,525.41

COMMITTEE EXHIBIT No. 85

General journal and statement of condition of Union Guardian Trust Co., Detroit, Mich., Feb. 11, 1933

Resources	Debits	Credits	Balances
Cash.....	\$15,024.04	\$14,175.04	\$13,793.02
Cash Items.....			1,231.02
Due from Units of Group.....			1,790,915.03
Due from Other Banks.....	768,116.68	555,804.23	5,523,125.14
Total Cash and Due from Banks.....			7,329,064.21
Demand Loans—Secured.....			245,497.74
Demand Loans—Unsecured.....			20,000.00
Time Loans—Secured.....	58,086.63		5,319,064.76
Time Loans—Unsecured.....			93,994.17
Past Due Bills.....		58,086.63	1,837,057.51
Rent Notes Receivable.....			17,373.10
Advances to Trusts—Class A.....			2,324,185.97
Advances to Trusts—Class B.....			330,954.27
Mortgage Loans in Office.....	3,100.00		3,875,308.85
Mortgage Loans Made for Trust Acc'ts.....			217,946.33
Mortgage Loans with State Treasurer.....			
Mortgage Loans—Miscellaneous.....			
Mortgage Loans in Office Pledged "R".....	2,507.22		8,025,063.24
Mortgage Loans in Office Pledged "R" #2.....			6,431,932.49
Mortgage Loans—Metro. Certificates.....			138,037.18
Mortgage Loans—Assgts. Misc.....			589,754.39
Second Mortgage Loans in Office.....			662,773.31
Land Contracts.....	70.88		2,159,728.12
Total Loans.....			32,288,701.43
U.S. Securities.....			102,036.00
Municipal and Other nontaxable Sec.....			
Other Securities.....			406,982.78
Capital Stock Subsidiaries.....			1.00
Securities Pledged.....			3,908,093.12
Total Securities.....			4,417,112.90
Other Real Estate.....			5,160,993.58
Leasehold Improvements (Less Dep. \$).....			56,806.38
Furn. & Fixtures (Less Dep. \$).....			197,034.05
Mechanical Eqpt. (Less Dep. \$).....			51,449.99
Mechanical Eqpt.-Bldg. (Less Dep. \$).....			3,644.48
Customer Liab. under Letters of Credit.....			12,675.00
Rent Receivable.....			7,910.86
Accounts Receivable.....	604.29	.25	97,329.92
Other Resources.....			93,015.60
Debits & Credits Fwd.....	844,931.61	638,555.11	2,363,925.50
Total Resources.....			52,071,753.04

General journal and statement of condition of Union Guardian Trust Co., Detroit, Mich., Feb. 11, 1933—Continued

COMMITTEE EXHIBIT NO. 85

Liabilities	Debits	Credits	Balances
Debits and credits forwarded.....	\$844,931.64	\$638,555.11	
Capital.....			\$5,000,000.00
Surplus.....			2,000,000.00
Undivided Profits.....			382,059.21
Current Period Profits.....			181,188.34
Total Capital Funds.....			7,200,870.87
Reserves:			
Bonds.....			536,352.89
Contingencies.....			276,066.85
Interest.....			1,231,174.54
Total Reserves.....			2,043,594.28
Trust Funds:			
Trust Funds Specially Deposited.....	27,433.42	18,133.33	900,021.24
Class "A".....	121,821.63	400,536.51	4,593,040.68
Total Class "A" Funds.....			5,493,061.92
Class "B":			
Other Public Funds.....			3,657,668.42
Due to Banks.....			75,636.56
Due to Units of Group.....			73,255.72
Due to Others.....	70,997.55	72,182.26	4,865,268.39
Total Class "B" Funds.....			8,671,829.09
Total Trust Funds.....			14,164,891.01
Certificates of Deposit—Demand:			
State Funds.....			850,000.00
Other Public Funds.....			16,000.00
Due to Banks.....			740,255.61
Due to Units of Group.....			676,008.15
Due to Others.....	3,350.00		12,183,443.98
Total Demand Deposits.....			28,630,598.75
Savings Deposits, Individual.....	331.71	50.00	101,043.63
Certificates of Deposit—Time:			
Due to banks.....			142,000.00
Due to others.....			1,278,096.23
Total Time Deposits.....			1,521,159.86
Bills Payable—R. F. C. #1.....	64,911.57		4,405,803.48
Bills Payable and Rediscounts—Units of G. #2.....			7,566,019.42
Mortgages Payable.....			349,230.00
Bonds Sold under Rep. Agt.....			
Total Borrowed Money.....			12,321,052.90
Uncollected rent.....			127,113.01
Liability under Letters of Credit.....			12,675.00
Accounts Payable.....	271.53	8.86	4,727.32
Other Liabilities.....			209,981.05
Accrual Ledger Control (T.B.F.).....	1,644.35	6,227.33	
Total Debits and Credits.....	1,135,693.40	1,135,693.40	
Total Liabilities.....			52,071,753.04
Loans Sold 2-10-33.....	89,000.00		
Interim Certificates 2-10.....			
Accts. Pay.:			
Real Est. Comm.....			2,545.33
Key Deposits—Employees.....			52.00
Key Deposits—Tenants.....	5.50		1,096.39
Cft. Ops. redeemable.....	266.03		491.06
Electricity tax.....		8.86	198.54
Tr. Co. Emp. Locker Key Dep. a/c.....			344.00
			4,727.32

General journal and statement of condition of Union Guardian Trust Co., Detroit, Mich., Feb. 11, 1933—Continued

COMMITTEE EXHIBIT NO. 85

DUE FROM BANKS

Bank	Debit	Credit	Balance
<i>Trust accounts</i>			
Central Hanover Bk. & Tr. Co., New York			\$500,000.00
Chemical Bk. & Tr. Co., New York			400,000.00
Manufacturers' Trust Co., New York			8,280.31
Bkrs. Tr. Co., N.Y. National		\$170.00	309,686.49
Cont'l Illinois Bk. & Tr. Co., Chicago	\$2,879.61	117,562.90	202,032.57
Straus Nat'l Bk. & Tr. Co., Chicago, Ill.			124,910.45
Farmers Dep. Nat. Bk., Pittsburgh, Pa.			293,404.24
Union Trust Co., Pittsburgh, Pa.			702,213.48
First Wayne Nat'l Bank, Detroit	410,955.78	17,493.10	
1st Wayne Nat'l Bk., Det. Rec. Bldg. A/C			
Guard Nat'l Bk. of Com. (Uptown Off.), Detroit			
Cont'l. Ill. Nat. Bk. & Tr. Co., Chi. a/c #2			400,000.00
Northern Trust Co., Chicago, Illinois			200,019.16
Guaranty Trust Co., New York, New York			250,000.00
Natl. City Bank of Cleveland, Ohio			77,051.34
Can'd'n Bk. of Commerce, Windsor, Ont.			20,576.65
Dansard State Bank, Monroe, Mich.			
1st Nat'l. Bk. & Tr. Co., Flint, Mich.	46.00		6,479.86
1st Nat'l. Bk. & Tr. Co., Pontiac, Mich.			
1st St. Savings Bank, Birmingham, Mich.	154.65		13,386.13
Grosse Pointe Svc's Bk., Grosse Pointe, Mich.			
Mt. Clemens Svc's Bank, Mt. Clemens, Mich.			
Bankers Trust Co., New York, New York #2	18,133.33	27,433.42	400,000.00
Special C/D's & Accounts			900,021.24
Sundry Cert. of Deposit			685,000.00
Totals	432,167.37	162,629.42	5,493,061.92
<i>General accounts</i>			
J. P. Morgan & Co., New York			3,557.42
Guaranty Trust Co., New York			
Nat'l City Bank, New York			5,677.15
Chem. Bk. & Tr. Co., N.Y.	8,564.51	7,661.01	57,725.73
City National Bank & Trust Co., Chicago		73.49	5,785.19
Union Trust Co., Pittsburgh, Pa.			
Highland Pk. St. Bk., Special Account	504.29	504.29	2,500.00
Guard. Nat'l Bk. of Com., Detroit	305,734.66	376,632.66	1,644,450.97
Items in Transit:			
Sundry Bks. & Bkrs.	21,145.85	8,303.36	86,281.79
Sundry Cert. of Deposit			15,000.00
Totals	335,949.31	393,174.81	1,820,978.25

RESERVE POSITION

Account	Percent	Amount Required
Certificates of Deposit—Demand	25	\$3,616,426.94
Certificates of Deposit—Time	5	71,004.81
Trust Funds—Class B	10	867,182.90
Special Deposits	12	
Monthly Payment Mtge. Deposits	12	12,125.23
Total Reserve Required		4,566,739.88
Total Reserve Held		1,836,002.29
Deficit, Reserve		2,730,737.59

STOCK EXCHANGE PRACTICES

THURSDAY, JANUARY 18, 1934

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE
ON BANKING AND CURRENCY,

Washington, D.C.

The subcommittee met at 10 a.m. pursuant to adjournment on yesterday, in room no. 301, of the Senate Office Building, Senator Duncan U. Fletcher presiding.

Present: Senators Fletcher (chairman), Adams, Townsend, and Couzens.

Present also: Ferdinand Pecora, counsel to the committee; Julius Silver and David Saperstein, associate counsel to the committee; and Frank J. Meehan, chief statistician to the committee.

The CHAIRMAN. The subcommittee will come to order, please. I see that Mr. Mott has resumed the witness seat at the committee table.

TESTIMONY OF CHARLES S. MOTT, FLINT, MICH.—Resumed

Mr. PECORA. Mr. Mott—

Mr. MOTT (interposing). Mr. Pecora, may I correct my last answer?

Mr. PECORA. Yes.

Mr. MOTT. Due to the confusion I forgot for the moment. I did make a demand on Mr. Covington for payment in October.

Mr. PECORA. In October of 1933?

Mr. MOTT. In October of 1933; yes; a written demand.

Mr. PECORA. Have you a copy of the written demand?

Mr. MOTT. I haven't it here.

Mr. PECORA. Is it in the form of a letter?

Mr. MOTT. Yes.

Mr. PECORA. What reply did you get to it?

Mr. MOTT. That he was unable to make payment at this time.

Mr. PECORA. When were the interest installments due and payable on the note?

Mr. MOTT. The note did not specify. The note simply specified that it was a demand note.

Mr. PECORA. Will you produce the note if you have it, Mr. Mott?

Mr. MOTT. I have it right here.

Mr. PECORA. All right.

Mr. MOTT. Here it is.

MR. PECORA. A collateralized note produced by the witness. I will read into the record, it being an original demand note, I do not think the committee reporter should mark it as an exhibit. [Reading:]

DETROIT, MICH., December 14, 1933.

On demand after date I promise to pay to C. S. Mott, or order two hundred and forty thousand and no/100 dollars, at the Guardian National Bank of Commerce, Detroit, Mich. Value received. With 6 percent interest per annum from date.

HARRY S. COVINGTON.

Then there is a marginal notation on the face of the note, reading as follows:

Collateralized by 30,000 shares of Guardian Detroit Union Group, Inc., stock.

No endorsements of any kind appear on the note. I now return the note to you, Mr. Mott.

MR. MOTT. I thank you.

THE CHAIRMAN. Do you still have the collateral, Mr. Mott?

MR. MOTT. The collateral was attached to the note.

THE CHAIRMAN. And you still have it?

MR. MOTT. Yes; it is right here.

THE CHAIRMAN. All right.

MR. PECORA. Have you the stock certificates that were the subject of this transaction?

MR. MOTT. Yes. Here it is.

MR. PECORA. The certificate produced by the witness was issued by the Guardian Detroit Union Group, Inc., to Harry S. Covington, for 30,000 shares of the capital stock of the Group.

SENATOR COUZENS. Does it state the par value of the stock?

MR. PECORA. It has a par value of \$20 a share. I should like to read for the purpose of the record the following description which is printed on the back of the stock certificate:

Article 9 of articles of association: The holders of stock of this corporation shall be individually and severally liable (in proportion to the number of shares of its stock held by them respectively) for any statutory liability imposed upon this corporation by reason of its ownership of shares of the capital stock of any bank or trust company, and the stockholders of this corporation, by the acceptance of their certificates of stock of this corporation, severally agree that such liability may be enforced in the manner that statutory liability may now or hereafter be enforceable against stockholders of banks or trust companies under the laws of the United States or the State of Michigan.

A list of the stockholders of this corporation shall be filed with the banking commissioner of Michigan and the Comptroller of the Currency whenever requested by either of these officers.

This corporation reserves and shall have the right from time to time, upon affirmative vote of three fourths of its directors, to issue and dispose of all or any of its unissued or increased stock for the purpose of acquiring stock of banks, trust companies, and other corporations, without offering to the stockholders of this corporation for subscription any of the stock so to be disposed of.

The certificate is endorsed in blank by Harry S. Covington under date of December 14, 1932. Now, Mr. Mott, will you tell me in whose handwriting appears the filled-in matter on the face of the note that you received from Mr. Covington and which has been read into the record?

MR. MOTT. That is Mr. Covington's handwriting, I believe. At least, I believe it is. He handed me the note. I do not remember that I saw him make the note out.

Mr. PECORA. In whose handwriting is the date reading "December 14, 1932", which appears on the back of the certificate of stock that you have produced here and which appears directly over the endorsement of Harry S. Covington?

Mr. MOTT. Really, not being a handwriting expert, I hardly feel that I would be very well qualified to answer that question. If it was similar to Mr. Covington's handwriting, I would suppose he wrote it.

Mr. PECORA. It does not appear to be similar to Mr. Covington's handwriting, does it?

Mr. MOTT. No. But Mr. Covington is here and Mr. Covington can probably swear to who did put it in there, and when.

Mr. PECORA. That date, reading "December 14, 1933", is not in your handwriting, is it?

Mr. MOTT. No. I will swear to that.

Mr. PECORA. All right. Now, Mr. Mott, did you have more than one conversation with Mr. Covington about your selling to him these 30,000 shares of stock before you sold them to him?

Mr. MOTT. Possibly twice.

Mr. PECORA. How far apart were the two conversations?

Mr. MOTT. Not very far apart. It would be a matter of days or so.

Mr. PECORA. Well, now, was it at the first conversation that Mr. Covington expressed to you a desire to purchase a substantial block of shares of the group stock?

Mr. MOTT. As far as I recollect; yes.

Mr. PECORA. And did Mr. Covington say anything to you at that time, that you now recall, other than the fact that he wanted to acquire a large block of stock of the group?

Mr. MOTT. Well, he told me of his interest in the institution, his confidence in it, and that an ownership of a larger block of stock would enable him to speak with more authority in the bank as a larger stockholder.

Mr. PECORA. Did you think that his ownership of a larger number of shares of stock of the group would reenforce or enhance his authority as an officer of the bank?

Mr. MOTT. I felt very sure that it would; and I felt that it would be a very good thing for the other stockholders, including myself, in regard to the value of the stock that we held.

Mr. PECORA. Well, now, Mr. Mott, when did Mr. Covington first speak to you about his desire to acquire a larger block of stock of the group; or, I mean, when he first spoke to you, did he say how large a block he would like to acquire?

Mr. MOTT. I do not know whether it was the first or the second time. It was one of the times that he mentioned it; yes.

Mr. PECORA. How large a quantity of stock did he indicate, if it was the first or the second time that he spoke to you on the subject, that he wanted to acquire?

Mr. MOTT. He said anything up to 30,000 shares.

Mr. PECORA. Did he specify that number, 30,000 shares?

Mr. MOTT. He did.

Mr. PECORA. Did he tell you whether or not he had made any effort up to that time to increase his holdings of stock of the group?

Mr. MOTT. I do not think so.

Mr. PECORA. Did he ask you specifically if you would sell him any of your holdings of stock of the group?

Mr. MOTT. Yes.

Mr. PECORA. The first time he spoke to you on the subject did he ask you that?

Mr. MOTT. I do not know whether it was the first or the second time.

Mr. PECORA. What led to the second conversation between you on the subject?

Mr. MOTT. I don't know.

Mr. PECORA. Was it the fact that as a result of the first conversation there had been no indication given by you to him that you would sell him any of your holdings of stock of the group?

Mr. MOTT. Probably. The first time he mentioned the thing it was a new suggestion to me, and it was a matter that was the subject of consideration, as is natural with a person when somebody suggests buying an amount of stock or property to that amount. It is quite unusual for the person to turn around and say: "All right, I will do that." A man has to consider it some.

Mr. PECORA. Did you indicate to him at the first conversation that you would give the suggestion that you sell him some of your holdings, consideration?

Mr. MOTT. Yes.

Mr. PECORA. Was the price discussed at the first conversation?

Mr. MOTT. No.

Mr. PECORA. Why not, in view of the fact that you told him you would give consideration to his suggestion that you sell him some of your stock?

Mr. MOTT. Well, I say the price was not mentioned, it was undoubtedly mentioned that it would be at the market.

Mr. PECORA. Was anything said in the first conversation on the subject between you, concerning how he would pay for the stock if you sold him any of your holdings?

Mr. MOTT. I could not tell you whether it was the first or the second time. But I understood, anyway, that he would have to pay, that it would have to be paid for, with a note.

Mr. PECORA. Did you understand that at the outset?

Mr. MOTT. Yes.

Mr. PECORA. You understood at the outset of the negotiations between you and Mr. Covington—

Mr. MOTT. Yes.

Mr. PECORA. That he would pay for the stock entirely by note, or with a note?

Mr. MOTT. Yes.

Mr. PECORA. And you were readily agreeable to selling him the stock on those terms of payment?

Mr. MOTT. Yes. I had done that same thing many times before in the case of stock in companies in which I had been interested; and it is being done every day. It is standard practice.

Mr. PECORA. Were you familiar with the conditions of the group at that time? That is to say, in December of 1932, when you had these conversations or negotiations with Mr. Covington?

Mr. MOTT. Not as they are understood today.

Mr. PECORA. You were a member of the executive committee right down to the time that a receiver was appointed for the group, weren't you?

Mr. MOTT. I was a member of the executive committee; yes.

Mr. PECORA. And as such you endeavored to keep yourself posted as to the condition of the company, didn't you?

Mr. MOTT. I did.

The CHAIRMAN. How many shares of stock did you have in the group?

Mr. MOTT. As I testified on yesterday, before the sale to Mr. Covington I had approximately 42,000 shares.

Mr. PECORA. And you were aware of the provisions in the articles of association of the group which is printed on the back of the stock certificate that has been produced here, weren't you?

Mr. MOTT. I have read that, and I took it for what it was worth.

Mr. PECORA. What did you think it was worth?

Mr. MOTT. Nothing.

Mr. PECORA. That is, you did not think it meant anything?

Mr. MOTT. It meant something, yes; but I had received advice that it would not stand up under the law.

Mr. PECORA. When did you receive such advice?

Mr. MOTT. Well, I don't know. I cannot state any specific date, but during the past 6 or 8 months—say, 6 months—the matter has been built up in law and by briefs, and that sort of thing, so that it would indicate quite clearly that that was the fact. As a matter of fact, I understand that in Missouri the Federal district court rendered an opinion that would substantiate that. And then in Wisconsin, in the district court; and also in the court of appeals, which affirmed the same idea—that, apparently, a corporation, not a banking corporation, could not write into its—whatever you call it, articles of association or anything else, that which was not provided for under the corporate law.

Mr. PECORA. You are not a lawyer, are you?

Mr. MOTT. No. But I have read a terrible lot of it during the past 6 months.

Mr. PECORA. When for the first time did you reach the conclusion that that provision of the articles of association which is inscribed or printed on the stock certificates of the group, with respect to statutory law affecting holders of stock, under the banking laws, was meaningless?

Mr. MOTT. That I cannot say. I was not very much interested in that for the reason that I had already loaned the group 2½ million dollars, which was more than any possible assessment that could be made against me. And I had figured that I had put up more than three times the amount of any possible assessed liability. So I dismissed the matter from my mind, feeling that I was not liable.

Mr. PECORA. Now, Mr. Mott, do you regard yourself as having been one of the "founders", so-called, of this group?

Mr. MOTT. Absolutely not.

Mr. PECORA. Were you a stockholder of the group from its inception?

Mr. MOTT. Let me explain it in my own way: I was a stockholder in the Industrial Bank in Flint, which later combined with the Union bank there and was called the Union Industrial. And I was also a stockholder in the National Bank of Commerce, which combined with the Union Trust Co., and took in the Griswold. Then the Union Commerce Corporation took over the Union Industrial Bank. And later the Guardian Detroit Bank combined with the Union Commerce Corporation. I was not active in the formation of the combinations in any way at all. My stock was transferred along with others, but I had nothing to do with the formation of any of them.

Mr. PECORA. That is, the stock that you had in the banks that you have mentioned, was exchanged for stock of the Guardian Detroit Union Group, Inc., when that company took over those banks?

Mr. MOTT. Yes, sir.

Mr. PECORA. Was that the time when you first became a stockholder of the group?

Mr. MOTT. Yes.

Mr. PECORA. Did you at that time observe that provision of the articles of association of the group which is inscribed on the certificates of stock of the group?

Mr. MOTT. No. I never knew anything about that until about a year ago.

Senator ADAMS. Mr. Mott, I do not know whether Mr. Pecora has called your attention to this provision, but I notice on the face of the certificate a provision that this certificate is issued subject to all of the provisions of the company's articles of association, as indicated by article 9, and so forth, which refers to the very part that is on the back of the certificate. So it seems to me that constitutes a contract with the stockholder, Mr. Pecora.

Mr. PECORA. That is the legal question that is now in the courts of Michigan, I understand.

Mr. MOTT. On the other hand, we have the courts of Missouri, the Federal court of Missouri, and the district court and the court of appeals in Wisconsin, saying to the contrary.

Senator ADAMS. Of course, I am curious. Mr. Mott, to know upon what ground they would say to a man that he could not make a contract with a corporation when he buys the stock. I can see where they would say that the corporation could not impose it on him by amending the bylaws, but when he accepts it, why, it seems to me that it comes awfully close to being a contract.

Mr. MOTT. A lot of things seem like contracts. It seemed like a contract when we bought the United States Government bonds payable in gold, but we found they were different. We found it was something else. Now I don't know. I am not passing on that.

Senator ADAMS. The fact that one man violates his contract is no excuse for another.

Mr. MOTT. I don't say that the Government violated its contract. I lay it on the table.

Senator COUZENS. Did you not consider, Mr. Mott, that there was a moral obligation after you accepted and signed for that certificate?

Mr. MOTT. I never read that thing. There are very few people, I believe, who do read the provisions on their stock certificates.

Mr. PECORA. When did you first know that that provision was printed on the stock certificates?

Mr. MOTT. Well, probably about a year ago.

Mr. PECORA. Not until then?

Mr. MOTT. No.

Mr. PECORA. And what brought it to your attention then, Mr. Mott, in view of the fact that for 2 or 3 or more years prior to that time while you were a stockholder it had steadily escaped your observation?

Mr. MOTT. I don't know. There must have been some general discussion, some discussion somewhere.

Mr. PECORA. And your memory about that is not clear?

Mr. MOTT. No.

Senator ADAMS. Mr. Pecora, may I intrude a moment? Mr. Mott was making some comment on the Government obligations. It seems to me there was a suggestion in that. You know the provisions in Government bonds to which you refer were, I think, not authorized by any statute of the United States. I think they were put in at the time by the Treasury of the United States. I think there is a very serious question whether or not the Treasury of the United States ever had any right to put those provisions in the bonds. In this case those provisions are put in by the very fundamental law of the corporation itself.

Mr. MOTT. Now, you hit on exactly the thing that I think is spoken of by the courts that I mentioned, the question as to whether or not a corporation, the Guardian Group Corporation, had any right to put in there a provision of assessability which was not provided for under the law, and your answer to me regarding the other thing is exactly the answer on this thing here, as I understand it.

Senator COUZENS. As a matter of fact, did the attorney general of the State of Michigan approve of this holding company procedure based on that very article that you referred to on the certificate?

Mr. MOTT. You would know more about that than I would.

Senator COUZENS. I understood that there was some issue raised at one time in Michigan as to the right of the holding company to organize and hold banks' stocks and trust companies' stock, and that the attorney general of the State of Michigan gave an opinion that it was all right with that provision in the articles.

Mr. MOTT. The attorney general of the State of Michigan recommended to the Burgess Hospital that they start suit against me a short time ago, on which the circuit court handed down an opinion that I was neither legally nor morally responsible for the complaint made, and that was affirmed by the Supreme Court, and yet it was recommended by the attorney general's department that I be gone after.

Senator COUZENS. You think that is an alibi for this case, then?

Mr. MOTT. No, no. I get terribly confused by what—

Senator COUZENS (interposing). Lawyers say?

Mr. MOTT. Lawyers say, and what the facts are. I don't know.

Senator COUZENS. You are no more confused than I am in that regard.

Senator ADAMS. You know, every once in a while someone confuses the opinion of an attorney general with the decisions of the court. It is not always quite as final.

Mr. PECORA. Mr. Mott, while you were a stockholder of the banks that subsequently became units of the group, did you have any opinion of your own as to whether or not, as such a stockholder, you were subject to statutory liability as a stockholder of the bank?

Mr. MOTT. Yes; as a stockholder of the Union Industrial Bank, I realized that I was subject to assessment liability. There was no question on that. And I even went further and voluntarily in 1929 contributed to the Union Industrial Bank far more than my assessed liability.

Mr. PECORA. We know about that, Mr. Mott, but it hardly has any relationship to the subject of this examination. When you exchanged your bank shares for the shares of the capital stock of the group, on the occasion of the acquisition of those banks by the group, did you feel thereupon that that liability had fallen away from you?

Mr. MOTT. I did not give it any thought.

Mr. PECORA. You gave it no thought at all?

Mr. MOTT. No.

Mr. PECORA. Did you feel that you were under that liability?

Mr. MOTT. I gave it no thought at all at that time.

Mr. PECORA. When for the first time did you give the subject any thought as to whether or not any liability attached to you as a stockholder of the group stock, under the banking laws and the other laws of the State of Michigan or the United States?

Mr. MOTT. Well, when I first thought of the possibility of liability I came to the instant conclusion that by virtue of my having loaned, advanced money, 2½ millions, to the group, that if there was any liability it would come out of that.

Mr. PECORA. When was that? When did you give thought to that?

Mr. MOTT. I cannot say.

Mr. PECORA. Was it before the sale of this 30,000 shares to Mr. Covington in December of 1932?

Mr. MOTT. Yes.

Mr. PECORA. Did you before that sale feel that you under any liability—

Mr. MOTT. No.

Mr. PECORA. As an owner of group stock—

Mr. MOTT. No.

Mr. PECORA. To assessment?

Mr. MOTT. When I sold him the stock I didn't feel that I was relieving myself of any liability, assessed liability. I didn't think I had any assessed liability then.

Mr. PECORA. That is what I am coming to. When are you conscious of having first firmly developed the thought in your own mind that you were not liable as an owner or holder of group stock for assessment in the event of failure of any of the banks that were controlled and owned by the group?

Mr. MOTT. Well, I cannot say. It was some time previous to December 1932.

Mr. PECORA. What happened at that time that you say was some time prior to December 1932 that brought home to you the thought or the belief that you were not under any such liability as an owner of group stock?

Mr. MOTT. Because I make a practice of more or less listing my liabilities, actual and contingent, not in a book, but I take a piece of paper, for instance, scrap paper, and write those things down.

Mr. PECORA. And do you recall having written down a memorandum which is to the effect that you were not under any liability as an owner of the group stock?

Mr. MOTT. It omitted liability as an owner of the stock.

Mr. PECORA. Well now, let us see, Mr. Mott. You said a few minutes ago that the first time you observed the provision of article 9 of the articles of association of the group which are printed on the back of the stock certificates was about a year ago?

Mr. MOTT. Yes.

Mr. PECORA. Which would make it after the sale to Mr. Covington of this 30,000 shares?

Mr. MOTT. Yes.

Mr. PECORA. What was the occasion for your making a memorandum some time prior to December 1932 that you were not liable as a holder of group stock?

Mr. MOTT. Let me state this again. I said that I have for years made a practice of making memorandums simply to get the thing set in my mind as to my actual and contingent liabilities, the actual money that I owed on notes, contingent liabilities, endorsements of notes for others, and contracts or anything else, for the purpose of telling what my maximum liabilities were, and I did not write down on the paper that regarding Guardian Group stock I have no liability. It just did not appear. I did not consider that I had a liability there.

Mr. PECORA. At that time what had caused you to feel that you did not have any such liabilities?

Mr. MOTT. The principal reason, as I remember it, was the fact that I had loaned the group 2½ million dollars.

Mr. PECORA. Well, you felt that because you had made that loan the amount of the loan far exceeded any statutory liability that you might be under as an owner of group stock, didn't you?

Mr. MOTT. Yes.

Mr. PECORA. But connotes the fact that you were cognizant of being under a liability?

Mr. MOTT. Not necessarily.

Mr. PECORA. The amount of which, however, was exceeded by the loan that you had made to the Flint bank?

Mr. MOTT. No. If there was a question—if Mr. Brown over here had some kind of a claim against me for a thousand dollars and I had loaned him \$10,000, I would not have to be very greatly concerned about whether or not his claim of \$1,000 was any good or not. I would not have to figure that out at all.

Senator ADAMS. Mr. Mott, I suppose that you have had legal advice on those things, but I do not believe that if this is a valid provision you could differentiate that from the situation of a direct assessment on the part of the bank when you were a depositor.

Now, as I understand the rule, Mr. Mott, you can not offset the liability or an assessment on stock against your deposit. What you have to do is to pay your assessment and then simply take your prorata payment. That is, they do not offset each other. That is the repeated holdings of the courts.

Mr. MOTT. I do not contradict you in any way at all. I would not be able to anyhow.

Senator ADAMS. Oh, don't hesitate.

Mr. MOTT. I am not questioning that at all. That may all be so. I was asked as to how and why I did these things. I have done a lot of things that were entirely wrong.

Senator ADAMS. If you have not, you are most remarkable.

Mr. PECORA. Mr. Mott, while you were an owner of the capital stock of the bank or banks that subsequently became units of this group you knew that you were under the statutory liability as such stockholder, didn't you?

Mr. MOTT. Yes.

Mr. PECORA. When you transferred those bank shares for shares of the group what was your feeling about whether or not you were liable as a stockholder of the group?

Mr. MOTT. I was not conscious of any feeling.

Mr. PECORA. You gave it no thought at all?

Mr. MOTT. No.

Mr. PECORA. Did you still think you were under a corresponding liability?

Mr. MOTT. No; it did not occur to me.

Mr. PECORA. When did you first come to the conclusion that you were not liable as a stockholder of the group?

Mr. MOTT. I don't know.

Mr. PECORA. Was it before your sale of the 30,000 shares to Mr. Covington in December 1932?

Mr. MOTT. Yes.

Mr. PECORA. That you are sure of?

Mr. MOTT. Yes.

Mr. PECORA. Can you tell the committee what it was that happened prior to December 1932 that first made you aware of the fact, as you thought it to be the fact, that you were not liable as a stockholder of the group?

Mr. MOTT. I cannot say.

Mr. PECORA. You said that you were not aware of the provision inscribed on the back of these stock certificates with regard to article 9 of the articles of association until about a year ago.

Mr. MOTT. That is correct.

Mr. PECORA. Which is after the sale to Covington?

Mr. MOTT. Correct.

Mr. PECORA. Now, did you ask anything of Mr. Covington when you agreed to sell your 30,000 shares of group stock to him for \$240,000, about his ability to pay the note which he gave you for the stock?

Mr. MOTT. No.

Mr. PECORA. Well, the note was for a very substantial amount, nearly a quarter of a million dollars?

Mr. MOTT. Yes.

Mr. PECORA. And you took his note without any inquiry of any kind on your part as to his ability to meet it?

Mr. MOTT. Yes. He held a very responsible position and got a good salary, a very substantial salary.

Mr. PECORA. What was the salary?

Mr. MOTT. I cannot tell exactly, but I think it was about \$25,000 a year.

Mr. PECORA. You thought that his being in receipt of that salary was an assurance to you of his responsibility or ability to meet the note for \$240,000?

Mr. MOTT. I felt that the note would be paid in the course of time. The market price on the stock was very low.

Mr. PECORA. But the aggregate amount that he agreed to pay was pretty large, wasn't it?

Mr. MOTT. Yes; but with a slight advance in the stock it would have been possible to have paid off part or maybe all of the note.

Mr. PECORA. Were you looking to an advance in the stock to enable Mr. Covington to meet his note?

Mr. MOTT. I thought that was easily possible.

Mr. PECORA. Were you looking to it as a means of enabling Mr. Covington to pay you his note of \$240,000?

Mr. MOTT. Well, that is hard to say. I have sold other stock—

Mr. PECORA (interposing). Let us confine ourselves to this one transaction, Mr. Mott.

Mr. MOTT. I cannot answer that.

Mr. PECORA. Had you any assurances whatsoever as to Mr. Covington's financial responsibility to enable him to meet this note for \$240,000 when you sold your stock to him?

Mr. MOTT. Only his position and his salary.

Mr. PECORA. Were you acquainted with any facts that would reflect the financial position of Mr. Covington when you agreed to sell him for \$240,000 your 30,000 shares of stock and took his note for full purchase price?

Mr. MOTT. I don't think so.

Mr. PECORA. You knew that the stock had been steadily declining in market value for a long period of time prior to December 14, 1932, didn't you?

Mr. MOTT. Just as every other stock did.

Mr. PECORA. No; let us confine ourselves to this stock, Mr. Mott. You knew that, didn't you?

Mr. MOTT. Yes.

Mr. PECORA. And on December 14, 1932 had conditions appreciably improved over what they had been for any period of time before that?

Mr. MOTT. I cannot tell from recollection.

Mr. PECORA. You knew that general business conditions were at an exceedingly low ebb in December 1932 at the time of this transaction?

Mr. MOTT. For quite a period; yes.

Mr. PECORA. And were getting worse?

Mr. MOTT. It did not occur to me that they were getting worse.

Mr. PECORA. What knowledge did you possess at that time of the financial condition of the group which indicated to you that the price

of \$8 a share for the group stock was a fair and reasonable price and one that you were willing to sell your stock for?

Mr. MOTT. It is hard for me to answer that directly. I was optimistic regarding the future of the group. I thought that conditions were going to improve.

Mr. PECORA. You had been thinking that for some time, hadn't you, prior to December 1932?

Mr. MOTT. Yes.

Mr. PECORA. And instead of their improving during that period of time that you thought they were going to improve, they got steadily worse, didn't they?

Mr. MOTT. For a certain period.

Mr. PECORA. Did you know the condition of the group in December 1932 when you had this transaction with Covington?

Mr. MOTT. Not as I know it now.

Mr. PECORA. What do you know it to be now?

Mr. MOTT. I know very little except what I have seen in the papers and discussed.

Mr. PECORA. What did you know it to be on December 14, 1932, or about that time?

Mr. MOTT. Well, that is a rather large order to answer.

Mr. PECORA. You were a member of the board of the group and a member of the executive committee of the board?

Mr. MOTT. Yes.

Mr. PECORA. Didn't that put you in a position where you could inform yourself fully as to the condition of the group and its various units?

Mr. MOTT. I lacked a lot of information that my position might have enabled me to have ascertained if there had been enough hours in the day to have done it.

Mr. PECORA. When Covington came to you and offered to buy your stock for the market price which you knew then to be \$8, did you think of making a specific inquiry of your own that would inform you as to the actual value of the stock before you agreed to sell it for \$8 a share to Covington?

Mr. MOTT. No.

Mr. PECORA. What can you tell this committee you knew as to the condition of the group at about the time you sold this stock to Covington?

Mr. MOTT. I don't think I could give a satisfactory explanation on that.

Mr. PECORA. Why not?

Mr. MOTT. Well, because, as I said, apparently I did not know all the conditions that existed.

Mr. PECORA. What did you know in December 1932 concerning the condition of the group?

Mr. MOTT. I knew that there had been a very considerable liquidation in deposits; that there had been criticism, and so on.

Mr. PECORA. Of what kind?

Mr. MOTT. Well, I attended the meeting with Chief Examiner Leyburn and tried to get as much information as I could from him, follow his advice, and so on.

Mr. PECORA. Didn't all that inform you that the condition of the Group was pretty desperate in December 1932, prior to your sale of the stock to Covington?

Mr. MOTT. It was difficult; yes. It was in a difficult position.

Mr. PECORA. You knew that the Union Guardian Trust Co. had had to go to the R.F.C. for large loans in order to keep it from suspending?

Mr. MOTT. Yes; and I also knew that it applied for $7\frac{1}{2}$ million dollars, of which I loaned $2\frac{1}{2}$, but I was not alarmed by that.

Mr. PECORA. You knew that much earlier than December 1932 the Group had found it necessary to borrow millions of dollars in order to enable it to carry on? Didn't you know that?

Mr. MOTT. Yes.

Mr. PECORA. You knew that it had outstanding obligations of around fourteen or fifteen million dollars?

Mr. MOTT. Yes.

Mr. PECORA. What else did you know about its condition that made it seem to be desperate, or "difficult", to use your words?

Mr. MOTT. Well, those were the principal things.

Mr. PECORA. Did you feel at that time that any of the unit banks might need to close?

Mr. MOTT. No.

Mr. PECORA. Did you think they would have to close?

Mr. MOTT. I thought they would not have to close.

Mr. PECORA. Hadn't you attended conferences as a director with officers of the group and various of the banks at which there was discussed the difficult situation of the group and its unit banks prior to December 14, 1932?

Mr. MOTT. The only one I remember is the discussion of the Trust Co.

Mr. PECORA. The Union Guardian Trust Co.?

Mr. MOTT. Yes.

Mr. PECORA. Is that the only discussion you ever participated in as a director of the group with regard to the condition of the group during the year 1932?

Mr. MOTT. Only one that seemed to be in considerable difficulties.

Mr. PECORA. When did you make this demand upon Covington for the payment of this note?

Mr. MOTT. In October.

Mr. PECORA. Do you know the date?

Mr. MOTT. Oh, I think it was about a little after the middle of October.

Senator COUZENS. Last year?

Mr. MOTT. Yes; 1933.

Mr. PECORA. And I believe you said before that you made that demand in writing?

Mr. MOTT. Yes.

Mr. PECORA. Through the medium of a letter?

Mr. MOTT. Yes.

Mr. PECORA. You haven't a copy of the letter?

Mr. MOTT. Not here.

Mr. PECORA. What reply did you get to it?

Mr. MOTT. That due to circumstances over which he had no control he was not able at this time to meet the demand.

Mr. PECORA. Did you do anything about it?

Mr. MOTT. Nothing further.

The CHAIRMAN. Did you ever trade in this stock, Mr. Mott, buy and sell group stock?

Mr. MOTT. No. I practically—no; I did not.

The CHAIRMAN. Were you a member of any syndicate that undertook to boost the price of the stock up by buying and selling?

Mr. MOTT. You can call it anything you want. I don't know what you would call it. Back in—

Senator COUZENS (interposing). Were you in the syndicate that Mr. Kanzler testified about?

Mr. MOTT. Well, I don't know what—let me tell you what I was in. I am not sure. I don't want to try to identify it that way. I find here that on December 11, 1930, I paid for 1,250 shares of stock at 60, and January 9, 1931, 750 shares.

Senator COUZENS. At what?

Mr. MOTT. At 53.81; and May 9, 1931, 500 shares at 42; and that there were delivered to me later 500 shares at an average cost of 31.68, which was a result of my having agreed to buy, together with other directors, 3,000 shares at a price not to exceed 60, which was not for the purpose of speculation but was for the purpose of taking the stock off the market, and believing that if the stock should suddenly drop, keep dropping further and further, it would affect confidence in the units.

Senator ADAMS. Mr. Mott, you speak of the market. What is the type of market upon which this stock was traded?

Mr. MOTT. I don't understand.

Senator COUZENS. Detroit Stock Exchange, wasn't it?

Mr. MOTT. Detroit Stock Exchange; yes.

Senator ADAMS. It was listed upon that exchange?

Mr. MOTT. Yes. And then subsequently I find that I paid for another 3,000 shares. On September 18, 1931, there was 2,240 shares at 24.64; October 1, 1931, 760 shares at 23.70.

Senator COUZENS. Those later purchases were by the second purchasing syndicate?

Mr. MOTT. That was the second proposition.

Mr. PECORA. Did you know when you sold these 30,000 shares of stock to Covington that at that time Covington was substantially indebted to the Union Guardian Trust Co.?

Mr. MOTT. I didn't know it then, and I don't know it now.

Mr. PECORA. You don't even know it now?

Mr. MOTT. No.

Mr. PECORA. That is how much or how little you knew of Covington's financial responsibility when you made the sale to him, is that it?

Mr. MOTT. Well, I say I don't know it now. I presume I might not ask if you know it or whether it is a fact. Is it presented as a fact?

Mr. PECORA. You were a director of the Union Guardian Trust Co., were you not?

Mr. MOTT. Yes.

Mr. PECORA. You do not know whether or not Mr. Covington was a borrower at the bank?

Mr. MOTT. I will put it this way, that I did not know that he was, and I do not know now. I assume it is intended to infer by the question that he is; but I do not know that.

Senator COUZENS. Did you deduct from your income tax return of 1932 the difference in the price you paid for those 30,000 shares and the price you sold them for to Mr. Covington?

Mr. MOTT. I did.

Senator COUZENS. You deducted it as a loss?

Mr. MOTT. Yes.

Mr. PECORA. Was anything said between you and Mr. Covington, in any conversation you had with him with respect to your selling him the stock, about liability?

Mr. MOTT. No.

Mr. PECORA. Not a word?

Mr. MOTT. No.

Mr. PECORA. Did you know at any time while you were a director of the group that in the years 1930, 1931, and 1932 the business operation of the group resulted in a deficit for each of those years to the group?

Mr. MOTT. I was informed by statements and otherwise that the units made money from an operating standpoint—

Mr. PECORA. That was not my question.

Mr. MOTT (continuing). But as to how much the charge-offs and reserves were to offset in whole or in part, that I do not recollect.

Mr. PECORA. Did you know that in those years that I have mentioned the group itself operated at a deficit?

Mr. MOTT. No.

Mr. PECORA. Or, rather, at a deficit at the end of each of those years?

Mr. MOTT. No; that was not my understanding.

Senator COUZENS. When you made this deal with Mr. Covington did you have in mind that it was at the close of the year and you might be able to deduct that loss from your income tax for 1932?

Mr. MOTT. I assume if I had sold it at a loss it would be deducted.

Senator COUZENS. Yes; but did you have that in contemplation when you made the deal?

Mr. MOTT. I probably had it in mind as a possibility.

Mr. PECORA. Mr. Mott, you spoke before of some loan made to the Flint bank. What was the amount of that?

Mr. MOTT. In 1929?

Mr. PECORA. Yes.

Mr. MOTT. Over 3½ millions.

Mr. PECORA. That was in order to make good some heavy loss that the bank sustained because of the misconduct of somebody or other?

Mr. MOTT. Yes.

Mr. PECORA. Was any of that money afterwards repaid to you?

Mr. MOTT. Yes.

Mr. PECORA. How much?

Mr. MOTT. My own loss in that was something like a million and a quarter. Of that 3½ million dollars or more which was put up, that was reduced by recoveries through the securities that were ob-

tained back from brokers and from the defaulters and certain payments by the bonding company, which reduced it to something in the neighborhood of a million dollars; and then other directors and stockholders participated later in the return of about half of that; so that my net contribution was about a million and a quarter dollars.

Mr. PECORA. As a matter of fact, these other officers and directors of the bank bound themselves by agreement, did they not, to pay back to you the moneys that you had advanced to the bank?

Mr. MOTT. After I had provided money, yes; not before.

Senator COUZENS. Then after the matter was concluded, had you stood more than your share of the obligations of the stockholders and directors?

Mr. MOTT. Yes; because there were quite a number of stockholders who did not participate in the thing, and we had to make that up. Furthermore, there was still something like \$35,000 of the obligation that I had personally to take care of because it was not taken up by anybody else.

Mr. PECORA. At the time you made this advance of approximately 3½ million dollars in 1929 you were the largest individual stockholder in that bank, were you not?

Mr. MOTT. No; I was not. The Union Commerce Corporation was the largest stockholder.

Mr. PECORA. But you were a large stockholder in the Union Commerce Corporation?

Mr. MOTT. I had exchanged my stock for the Union Commerce stock; yes.

Senator COUZENS. Did the Union Commerce Co. as a stockholder pay its contribution for the defalcation?

Mr. MOTT. They did not; they were not even asked to.

Senator COUZENS. When the final accounting was concluded, what amount had you paid in excess of your proper quota?

Mr. MOTT. It depends upon what you call my proper quota.

Senator COUZENS. I mean, as based on the stockholdings you had.

Mr. MOTT. Based on the stockholdings, I cannot tell exactly, because I would have to give you the number of shares on which other stockholders did not contribute.

Senator COUZENS. But based on the stockholdings which you yourself had, you must have known to what extent you exceeded your contribution, based on your own stock, notwithstanding what other stockholders may have defaulted.

Mr. MOTT. Well, I could get the information for you. We worked out a schedule which would indicate that each share of stock should be paid a certain amount.

Senator COUZENS. What amount?

Mr. MOTT. Well, I can't remember offhand the dollars per share. That was a matter of record and is easily ascertainable. A certain number of stockholders did pay that and a large number of other stockholders did not pay; and what they did not pay was contributed by directors, including myself, in proportion to what we had.

Senator COUZENS. So that there were other directors than yourself that exceeded the quota in their payment?

Mr. MOTT. Yes, sir. But over and beyond that, as I say, I suffered a loss of still \$35,000.

Senator COUZENS. So your contention is that over and above your legitimate obligations you contributed about \$35,000?

Mr. MOTT. God knows what my legitimate obligations were. I never stopped to figure that out.

The CHAIRMAN. How many shares did you have in that bank?

Mr. MOTT. Maybe I can tell you; I don't know.

The CHAIRMAN. Out of the entire capital stock of the bank, how many shares did you have?

Mr. MOTT. I think I had about—let me see if I have got the figures here. [After referring to memoranda:] I had about 25 percent of the stock in the Union Industrial; about 25,000 shares.

The CHAIRMAN. What was the par value?

Mr. MOTT. \$20—wait a minute; I am not sure whether it was \$20 or \$100.

The CHAIRMAN. That makes a little difference.

Mr. PECORA. The difference between \$500,000 and 2½ millions.

Mr. MOTT. There was 100,000 shares. At \$20 that would be \$2,000,000. It must have been \$20 share.

Senator COUZENS. In addition to that, did you have any holdings in the Industrial Holding Co., or whatever it was?

Mr. MOTT. You mean the Union Commerce Co.?

Senator COUZENS. Yes.

Mr. MOTT. Oh, yes. Apparently I had about 10,000 shares of Union Commerce.

Senator COUZENS. Were any of the stockholders of the Union Commerce asked to contribute on account of defalcations?

Mr. MOTT. No, sir.

Senator COUZENS. Why were they not asked?

Mr. MOTT. Well, because the stock of the Union Industrial Bank had just been turned over, and, as a matter of fact, while I—well, I did not in any way arrange for the exchange of stock or set the price or value or anything of that sort. That was done by the president of the bank, Mr. Brown. I was present when Mr. Brown came down there and showed his figures on the Union Industrial Bank to Mr. Blair who was the head of the Union Commerce, and the question was brought up—we had audits by our own people; and I think there was an audit by some certified accountant, if I remember rightly—but the question was brought up regarding an audit by the Union Commerce people, and I told Mr. Blair that I would undertake to see that the assets were as stated, and that was accepted; and when some 2 months afterwards it appeared that the assets were depleted by some millions of dollars it hardly a logical thing to ask the people to whom you transferred the stock to make good on it. It was up to those who had received the stock of the Union Commerce in exchange for the Union Industrial stock. What the legal set-up was never entered into the picture at all.

Mr. PECORA. When you sold 30,000 shares of group stock to Covington for \$240,000 and took his note therefor, you were firmly of the opinion then that Mr. Covington was financially responsible for the amount of the note, were you not?

Mr. MOTT. Well, it depends on what you mean. I considered him financially responsible; yes.

Mr. PECORA. Why did you defer the making of a demand for the payment of that note until October 1933, in view of that?

Mr. MOTT. Because I had not expected, if he gave a note, that he was going to be able to pay that within 30 or 60 days, and when all this trouble eventuated it became very clear that it was going to be difficult for him to pay the note.

Mr. PECORA. Is that why you made the demand—because you knew it was going to be difficult to pay it?

Mr. MOTT. The demand had to be made sometime.

Mr. PECORA. Why did you wait until October 1933 before making any demand, if in December 1932 you felt that he was financially responsible for the amount of the note?

Mr. MOTT. I do not know.

Mr. PECORA. Neither do I.

Mr. MOTT. Why do I go out one door when I could have gone out by another door? I don't know. I might have made it—it would have been just as easy to have done it 6 months previously.

Senator ADAMS. Did you have any anticipation or expectation that Covington could pay the note in 1933 when you made the demand?

Mr. MOTT. No.

Senator ADAMS. Why did you make it then?

Mr. MOTT. As a matter of record.

Mr. PECORA. How big a loss did that sale represent to you approximately?

Mr. MOTT. I think that 25,000 shares out of what I sold would cost about \$36 a share.

Mr. PECORA. How much of a loss on account of that sale did you deduct from your taxable income for the year 1932?

Mr. MOTT. I could multiply it out; I would have to multiply it out. Something like \$30 a share, I presume. It would be a capital loss of \$900,000 or \$1,000,000—something of that sort, I assume.

Mr. PECORA. That is all, Mr. Mott.

The CHAIRMAN. You are excused.

(Witness excused.)

TESTIMONY OF HARRY S. COVINGTON, NEW YORK, N.Y.

The CHAIRMAN. Do you solemnly swear that the testimony you will give in this hearing will be the truth, the whole truth, and nothing but the truth, so help you God?

Mr. COVINGTON. I do.

Mr. PECORA. Your full name, address, and present occupation?

Mr. COVINGTON. Harry S. Covington; 60 East Ninety-sixth Street, New York. I work for a sugar company.

Mr. PECORA. In what capacity?

Mr. COVINGTON. Vice president.

Mr. PECORA. What is the name of the company?

Mr. COVINGTON. United States Sugar Corporation.

Mr. PECORA. Is Mr. Mott, the preceding witness, in any way identified with that company?

Mr. COVINGTON. He is recorded as a large stockholder in that company; yes, sir.

Mr. PECORA. Did you obtain your position there through Mr. Mott?

Mr. COVINGTON. I did not, sir.

Mr. PECORA. You have heard the testimony that was given before this committee by Mr. Mott this morning, have you not?

Mr. COVINGTON. Yes, sir.

Mr. PECORA. Did you hear also the testimony he gave before this committee yesterday afternoon?

Mr. COVINGTON. Yes, sir.

Mr. PECORA. And you are familiar with everything he testified to?

Mr. COVINGTON. As much as my memory will permit; yes.

Mr. PECORA. Mr. Covington, were you an officer or director of the Guardian Detroit Union Group, Inc.?

Mr. COVINGTON. I was not an officer; I was an officer at one time at no salary, in the early stages, with no active part. It was an inactive position, and later those positions were dropped. There were a number of men who were made officers in units, but they were all dropped, and, as I recall it, none of them drew any salaries. I did not. I was a director of the Group Co., the Guardian Detroit Union Group, at its inception, and then I was off the board when another gentleman took my place that they wanted; and for about a year I was not a director, and then I was elected again as a director of the Group Co.

Mr. PECORA. When did you first cease to be a director of the Group Co.? You said you were a director at the outset.

Mr. COVINGTON. Yes, sir.

Mr. PECORA. How long did you continue to be a director?

Mr. COVINGTON. Until about the first of the year.

Mr. PECORA. Of what year?

Mr. COVINGTON. Of the organization or the merger between the Union Commerce Corporation—

Mr. PECORA. That merger or consolidation became effective on December 16, 1929, did it not?

Mr. COVINGTON. I assume that is correct.

Mr. PECORA. You were a director at that time?

Mr. COVINGTON. Yes, sir.

Mr. PECORA. And you remained as a director for a year thereafter?

Mr. COVINGTON. I remained a director, as I recall it, until about the first of that year. In 1930 I was not a director until the end of that year, or until the first of 1931.

Mr. PECORA. Did you continue to be a director from either the end of 1930 or the beginning of 1931 until the receiver for the group was appointed last year?

Mr. COVINGTON. Yes, sir.

Mr. PECORA. And as such director, were you a regular attendant at meetings of the board?

Mr. COVINGTON. Yes, sir; fairly regular.

Mr. PECORA. Were you also, while a director of the group, a member of any committee of the board of the group?

Mr. COVINGTON. There was an operating committee at the early stages of which I was a member. I was not on the executive committee nor on the advisory committee. I continued as a member of the operating committee, I believe, until the time I was reelected as a director. The records will have to show this, Mr. Pecora. I was

reelected a director and, I believe, made a member of the executive committee, upon my reelection to the board.

Mr. PECORA. While you were a member of the operating committee of the board did you attend its meetings?

Mr. COVINGTON. Yes.

Mr. PECORA. And when you became a member of the executive committee of the board of the group, did you attend all meetings of such executive committee with regularity?

Mr. COVINGTON. Yes; I believe I would call it with regularity—as often as I could go.

Mr. PECORA. Were you also an officer or director of any unit bank or banks of the group?

Mr. COVINGTON. Yes, sir.

Mr. PECORA. Of which bank or banks were you an officer or director?

Mr. COVINGTON. I was a director of the Union Bank of Commerce. I later became a director of the Guardian National Bank of Commerce at the time of the merger, and I was a director of the bank in Flint.

Mr. PECORA. That is the bank in Flint that Mr. Mott referred to in the course of his testimony?

Mr. COVINGTON. Yes, sir. I was elected director there, I believe, shortly after the episode that Mr. Mott talked about.

Mr. PECORA. In addition to being a director of those banks were you an officer of any of them?

Mr. COVINGTON. I was an officer of the Guardian National Bank of Commerce.

Mr. PECORA. What office did you hold?

Mr. COVINGTON. I was executive vice president.

Mr. PECORA. Were you also an officer of the bank at Flint at any time?

Mr. COVINGTON. No, sir.

The CHAIRMAN. What is the name of the Flint bank?

Mr. COVINGTON. The Union Industrial Bank.

The CHAIRMAN. It is not a national bank?

Mr. COVINGTON. No, sir.

Senator COUZENS. Were you an officer of the National Bank of Commerce before the consolidation with the Guardian Detroit?

Mr. COVINGTON. Yes, sir.

Senator COUZENS. What office did you hold in the National Bank of Commerce?

Mr. COVINGTON. There were three executive vice presidents. I was one of them, the third ranking one of them.

Senator COUZENS. You were next to Mr. Sanger, were you?

Mr. COVINGTON. No, sir; not at the early stages, Senator. I was in the uptown office up until 1931, as I recall it, when they brought me down town. I was in charge of the uptown office in the General Motors Building.

Mr. PECORA. When did you first become a stockholder of the Guardian Detroit Union Group, Inc.?

Mr. COVINGTON. When the exchange took place between the Union Commerce Corporation and the Guardian Detroit Union Group.

Mr. PECORA. That was in December 1929?

Mr. COVINGTON. That was stock I had previously held.

Mr. PECORA. But you continued to be a stockholder from that time on?

Mr. COVINGTON. Yes, sir.

Mr. PECORA. Did you, from December 1929, increase your holdings of capital stock of the group?

Mr. COVINGTON. Yes, sir.

Mr. PECORA. Did you steadily increase them?

Mr. COVINGTON. Yes, sir.

Mr. PECORA. What were they at the start?

Mr. COVINGTON. I should think about 50 shares, all told.

Mr. PECORA. Up to December 14, 1932, to what extent had you increased your holdings of group stock?

Mr. COVINGTON. To an average, I would say, around 900 to 1,000 shares that I was interested in directly and indirectly.

Mr. PECORA. In December 1932, did you have any transaction with the preceding witness, Mr. Mott, with respect to capital stock of the group?

Mr. COVINGTON. I do not understand the question, if you please.

Mr. PECORA. In December 1932, did you have any transaction with the preceding witness, Mr. Mott, with respect to any stock of the group?

Mr. COVINGTON. I purchased some stock for Mr. Mott once.

Mr. PECORA. When?

Mr. COVINGTON. In 1931.

Mr. PECORA. How many shares?

Mr. COVINGTON. About 3,000, for Mr. Mott?

Mr. PECORA. Oh, you purchased them for him?

Mr. COVINGTON. Yes, sir; for him.

Mr. PECORA. Did you have any other transaction with Mr. Mott involving the capital stock of the group, prior to or up to December 14, 1932?

Mr. COVINGTON. No, sir.

Mr. PECORA. Did you have a transaction with him on or about December 14, 1932?

Mr. COVINGTON. Yes, sir.

Mr. PECORA. What did that involve?

Mr. COVINGTON. It involved the purchase of 30,000 shares of stock.

Mr. PECORA. Of the group?

Mr. COVINGTON. Of the group.

Mr. PECORA. By you from him?

Mr. COVINGTON. Yes.

Mr. PECORA. Who initiated that transaction?

Mr. COVINGTON. I did, sir.

Mr. PECORA. What prompted you to do it?

Mr. COVINGTON. My desire to get a larger holding in the institution.

Mr. PECORA. Was it your desire to acquire 30,000 additional shares?

Mr. COVINGTON. Yes, sir.

Mr. PECORA. Was that due to the fact in any way that you felt at the time that the acquisition of 30,000 shares of the group stock would be a good business transaction for you?

Mr. COVINGTON. Yes, sir.

Mr. PECORA. You were convinced of that quite firmly at that time, were you?

Mr. COVINGTON. At that time; yes, sir.

Mr. PECORA. What was the condition of the group at that time, Mr. Covington?

Mr. COVINGTON. Well, I was very busy in the bank and I thought the bank was improving very materially.

Mr. PECORA. What bank are you referring to?

Mr. COVINGTON. The Guardian National Bank of Commerce. That was where my main activity was.

Mr. PECORA. That was only one unit?

Mr. COVINGTON. That was the largest unit.

Mr. PECORA. What did you know to be the condition of the group at the time you negotiated to buy 30,000 shares of stock from Mr. Mott in December 1932?

Mr. COVINGTON. I felt that the officers in the other units, as I came in contact with them, were doing a very good job. The indications were that while we were in a depression, in the whirlwind of a depression, naturally the hope was that each day it would be over and the turn would come; and I had a feeling that America had reached about its bottom ebb; and that was my feeling in relation to the group. I had seen Mr. Mott advance \$2,500,000 and I had indications of what Mr. Ford was doing, and with the backing that it apparently had I had a feeling that it was in strong hands and that regardless of the troubles which I was having in the bank—I was having troubles in the bank, as a matter of fact, but I felt that from indications in certain lines and the way people were paying off, the way they stood up and paid off their obligations in good faith, it would weather any storm that would come up; and I was very much surprised and shocked within 60 days afterwards.

Mr. PECORA. Now, as a member of the executive committee of the Group during the year 1932 and during the year 1931, did you know of the deficit incurred by the group at the end of each of those years?

Mr. COVINGTON. I suppose I did, Mr. Pecora, but I was more interested in earnings—

Mr. PECORA. No; did you know, without any suppositions? Did you know as a matter of fact?

Mr. COVINGTON. The only way I can answer you is that I have seen it in the newspapers, and the only thing that I can remember is that that was a Group Co.

Mr. PECORA. You were buying the stock of the Group Co., were you not?

Mr. COVINGTON. Yes; but it was the earnings of the units which was the basic thing. That was my point of view. The operation of a holding company which got its earnings from its units, owning the stock of the units, was like a stockholder to me, as if a man owned stock in three concerns, and those three concerns were contributing to him. Whether that man individually was making money, it was not anything in comparison to the amount of funds that you would—let me stop and think just a minute. It was in relation to the earnings of each individual unit.

Mr. PECORA. Mr. Covington, I asked you if you knew that the group, as a company, in the year 1931 and again in the year 1932, developed a deficit in each of those years?

Mr. COVINGTON. I will have to say yes, sir.

Mr. PECORA. You did know it. You knew it currently. You knew it at the time.

Mr. COVINGTON. As I remember it, Mr. Pecora; but I did not pay so much attention to those particular figures. I really did not pay any attention to those figures.

Mr. PECORA. Were you familiar with the condition, in December 1932, of each and every unit of the group?

Mr. COVINGTON. No, sir.

Mr. PECORA. You were not?

Mr. COVINGTON. No, sir. I could not be, with the amount of work I was doing in the largest unit, the amount of time it took. I could not physically possibly know the details of every unit in the group. I was doing my job. I had faith in the people that were doing their job, and I still have faith in them.

Mr. PECORA. You knew that in the early part of the year 1932 the Union Guardian Trust Co. was in serious difficulty?

Mr. COVINGTON. What was the date, if you please?

Mr. PECORA. The early part of 1932—say, in the spring of 1932.

Mr. COVINGTON. I did not consider it serious difficulty, sir.

Mr. PECORA. Did you know it was in any difficulty?

Mr. COVINGTON. I knew that it needed to borrow funds; yes, sir.

Mr. PECORA. Didn't that reflect a serious condition?

Mr. COVINGTON. As it has come up to now, it does, but at that time it did not reflect it, because I believed that the ownership—the units that were owned by the group would earn its way out.

Mr. PECORA. I am talking about the one bank of the group, the Union Guardian Trust Co.

Mr. COVINGTON. I was not a director and officer of the Union Guardian Trust Co. I was so busy on my own job that I felt that things were going along. I knew that they had borrowed money. I knew that there was a depreciation in real estate, but, coupled with that, I believed that they would have the proper backing to weather the storm.

Mr. PECORA. Did you know that in the spring of 1932 the Union Guardian Trust Co. was in such difficulties that it sought and obtained a loan from the Reconstruction Finance Corporation of several million dollars?

Mr. COVINGTON. Yes, sir.

Mr. PECORA. Did you know that still during the spring of 1932, the difficulties of the Union Guardian Trust Co. had increased to the point where it sought a loan of approximately \$28,000,000 in addition to the loan which it had previously received from the R.F.C.?

Mr. COVINGTON. What was the date of that, Mr. Pecora?

Mr. PECORA. In June 1932.

Mr. COVINGTON. I do not recall knowing the exact amount of that loan; no, sir.

Mr. PECORA. Did you know that it was seeking a very large loan, many millions of dollars, from the R.F.C. in June 1932?

Mr. COVINGTON. I knew that they were endeavoring to increase the amount of loan that they had; yes, sir.

Mr. PECORA. By what amount?

Mr. COVINGTON. I do not remember the amount.

Mr. PECORA. Did you take part in any conferences held by the officers and directors of the group with officers and directors of the Trust Co. in connection with the Trust Co.'s application to the R.F.C. for this large loan?

Mr. COVINGTON. I probably did, sir.

Mr. PECORA. Were you one of the gentlemen who came to Washington in connection with that application for a loan from the R.F.C.?

Mr. COVINGTON. No, sir.

Mr. PECORA. As a result of the conferences which you attended with respect to the application of the Trust Co. for a loan from the R.F.C. did you learn something more definitely than you previously knew concerning the financial difficulties of the Trust Co. in 1932?

Mr. COVINGTON. It was the feeling that they had sufficient collateral to borrow the money.

Mr. PECORA. Feeling on whose part?

Mr. COVINGTON. On the part of the officers of the Trust Co.

Mr. PECORA. What was the feeling on the part of the examiners for the R.F.C. about that?

Mr. COVINGTON. I do not know, Mr. Pecora.

Mr. PECORA. Was not that made known to you in these conferences you had?

Mr. COVINGTON. The real conferences with the R.F.C. examiners, where there was any real declining of the loan, were in 1933. I was not so active. I tried to explain to you, sir, that I was spending all my time within my own bank, that I was working for, and I probably was—the records may show that I attended meetings, but there were a great many meetings that I did not attend because I was busy.

Mr. PECORA. Were you not giving attention to your duties and responsibilities as a director of the group as well as a member of the executive committee of the board of the group at that time?

Mr. COVINGTON. I felt that I was, Mr. Pecora.

Mr. PECORA. Were you familiar with the provision known as "article 9" in the articles of association or incorporation of the Guardian Detroit Union Group, Inc.?

Mr. COVINGTON. I knew about it; yes, sir.

Mr. PECORA. You knew about it from the start?

Mr. COVINGTON. Yes, sir.

Mr. PECORA. Did you feel that that was a valid provision at that time?

Mr. COVINGTON. I never gave it any real consideration, because I never anticipated that it would ever have to be put into operation, or any question come up about it.

Mr. PECORA. Did you feel that the stockholders of the group were under this statutory liability that is referred to in article 9?

Mr. COVINGTON. I felt the Group Co. probably was.

Mr. PECORA. How about the stockholders of the group? That is what I am asking.

Mr. COVINGTON. That is a legal question.

Mr. PECORA. What was your feeling about it when you became originally a stockholder of the group?

Mr. COVINGTON. I did not give it a great deal of consideration.

Mr. PECORA. Whatever consideration you gave, whether it was much or little, what conclusion did you come to at that time about it?

Mr. COVINGTON. I do not think I came to any conclusion, because I did not give it any real consideration.

Mr. PECORA. You saw the provision?

Mr. COVINGTON. Yes, sir.

Mr. PECORA. Printed on the certificates of stock of the group.

Mr. COVINGTON. I do not know whether I saw the provision or read the provision back at the time you refer to or not. I know that I have seen it, and the date that I have seen it I could not from memory tell you.

Mr. PECORA. When you first saw it, did you think it was meaningless?

Mr. COVINGTON. No, sir. I never think anything is meaningless.

Mr. PECORA. Did you feel that the liability referred to therein was imposed upon the holders of the stock of the group?

Mr. COVINGTON. I felt it was imposed upon the Group Co.

Mr. PECORA. Did you feel that it was imposed upon the stockholders of the group?

Mr. COVINGTON. I did not think about it, Mr. Pecora.

Mr. PECORA. You had no opinion at all about it?

Mr. COVINGTON. I had no opinion; no, sir.

Mr. PECORA. You had given it no consideration?

Mr. COVINGTON. Only the consideration that one would give casually.

Mr. PECORA. Was that only a casual thing for you to think about as a stockholder of the group? Was that matter of slight importance to you, to know whether or not, as a stockholder, you were under the statutory liability referred to not only in article 9 of the articles of association of the group but also shown on the stock certificates of the group?

Mr. COVINGTON. I think I can best answer you this way, that my faith was paramount, and so paramount that it just did not occur to me to give it any great consideration, because I did not believe anything was going to happen to the institution.

Mr. PECORA. As a stockholder of any of the unit banks, or any of the banks which subsequently were acquired by the group, you knew and you were familiar with this statutory liability, were you not?

Mr. COVINGTON. Yes, sir.

Mr. PECORA. Did you think that liability continued when you became a stockholder of the group?

Mr. COVINGTON. Would you mind repeating that? I cannot understand.

Mr. PECORA. Did you think that liability continued when you became a stockholder of the group?

Mr. COVINGTON. I suppose I did, sir.

Mr. PECORA. How long prior to December 14, 1932, did you first approach Mr. Mott on the subject of buying from him a large block of the group stock?

Mr. COVINGTON. How long before December 14, 1932? About 2 or 3 days before that, Mr. Pecora.

Mr. PECORA. When you first spoke to him about it, did you mention to him the number of shares of the group that you would like to buy?

Mr. COVINGTON. Yes, sir.

Mr. PECORA. Did you fix that at 30,000 shares?

Mr. COVINGTON. Yes, sir.

Mr. PECORA. What was your financial position at that time?

Mr. COVINGTON. I owed money.

Mr. PECORA. You owed money?

Mr. COVINGTON. Yes.

Mr. PECORA. Would you say you were solvent at that time?

Mr. COVINGTON. I felt that I was.

Mr. PECORA. To what extent? What did you think, in other words, was your net worth at that time?

Mr. COVINGTON. I thought that my earning capacity—

Mr. PECORA. No; not your earning capacity. What did you think was your net worth at that time?

Mr. COVINGTON. I had not analyzed it.

Mr. PECORA. Suppose you do.

Mr. COVINGTON. Well, from a cold analysis standpoint, I had no net worth, except my earning capacity.

Mr. PECORA. You had no net worth at all, but you believed you were solvent.

Mr. COVINGTON. I believed I could pay, Mr. Pecora.

Mr. PECORA. Did you think you were solvent at that time?

Mr. COVINGTON. You could not call it solvent; no, sir.

Mr. PECORA. What indebtedness did you owe at that time, when you went to Mr. Mott and negotiated with him to buy 30,000 shares of the capital stock of the Group Co.?

Mr. COVINGTON. I owed \$97,500 to the Union Co., and I owed about \$30,000 besides, as I recall it.

Mr. PECORA. That is around \$127,000 you owed at that time?

Mr. COVINGTON. Something around that figure; yes, sir.

Mr. PECORA. Were those loans in any way secured at that time?

Mr. COVINGTON. Yes, sir; they were secured. They had collateral on them.

Mr. PECORA. Were they undercollateralized?

Mr. COVINGTON. Yes, sir.

Mr. PECORA. To what extent?

Mr. COVINGTON. Very badly.

Mr. PECORA. Very badly undercollateralized? Knowing that to be your financial condition at that time, you thought of acquiring 30,000 shares of group stock?

Mr. COVINGTON. Yes, sir.

Mr. PECORA. Knowing at that time you could not pay for them?

Mr. COVINGTON. I had the collateral to pay for it in buying the 30,000 shares. There was 30,000 shares to pay for it with.

Mr. PECORA. Is that what you call paying for it?

Mr. COVINGTON. Yes, sir.

Mr. PECORA. You could buy anything on those terms, couldn't you?

Mr. COVINGTON. Mr. Mott, apparently—

Mr. PECORA. No; I say, you could buy anything on those terms, could you not, and consider yourself in a position to pay for it?

Mr. COVINGTON. I had an earning capacity, Mr. Pecora.

Mr. PECORA. What was your earning capacity? What was your earning power, your actual income, in December 1932?

Mr. COVINGTON. \$25,000 a year.

Mr. PECORA. When you first spoke to Mr. Mott, 2 or 3 days prior to December 14, 1932, you told him, in substance, that you wanted to buy 30,000 shares of the group stock?

Mr. COVINGTON. Yes, sir.

Mr. PECORA. Did you discuss the price with him?

Mr. COVINGTON. Not on the first meeting; no, sir. I asked Mr. Mott—I said I would like to increase my holdings in the bank or in the Group Co.

Mr. PECORA. By 30,000 shares?

Mr. COVINGTON. I picked out—just said 30,000 shares. As to why I said 30,000 shares I do not know myself. I just said 30,000 shares.

Mr. PECORA. You do not know why you wanted as many as 30,000 additional shares; it was just an arbitrary amount?

Mr. COVINGTON. Because it was a substantial amount.

Mr. PECORA. A thousand shares would have been a substantial amount, would it not, in view of the fact that during all the time prior to that the maximum interest you had in any stock of the group did not exceed 900 shares?

Mr. COVINGTON. Well, it was a case of me feeling that Mr. Mott had a great interest in my future, which he expressed many, many times, and I felt that if I asked him to sell me 30,000 shares he might do it. I did not know whether he would or not, and he did.

Mr. PECORA. When you first asked him, did he give you his answer?

Mr. COVINGTON. No, sir.

Mr. PECORA. What did he say?

Mr. COVINGTON. He said, "I will let you know", or words to that effect.

Mr. PECORA. But no price was discussed at that first time?

Mr. COVINGTON. Not that I remember.

Mr. PECORA. No terms of payment were discussed either?

Mr. COVINGTON. I told him I would have to give him a note for it.

Mr. PECORA. You told him that the first time?

Mr. COVINGTON. I think it was the first time. I do not recall whether it was the first time or the second time, but I believe it was the first time.

Mr. PECORA. You told him you would have to give him a note for the full amount of the purchase price?

Mr. COVINGTON. Yes, sir.

Mr. PECORA. Did you tell him what your financial condition was then?

Mr. COVINGTON. No, sir. That was not discussed.

Mr. PECORA. You knew you were insolvent?

Mr. COVINGTON. I did not feel insolvency.

Mr. PECORA. You knew you owed around \$127,000, which you said was very, very substantially underecollateralized?

Mr. COVINGTON. Yes, sir.

Mr. PECORA. You did not say anything about that to Mr. Mott, did you?

Mr. COVINGTON. No, sir.

Mr. PECORA. He did not ask you any questions about your ability to pay the note?

Mr. COVINGTON. No, sir.

Mr. PECORA. Did you know at that time how many shares of stock of the group Mr. Mott owned in his own right?

Mr. COVINGTON. I did not know exactly; no, sir.

Mr. PECORA. Did you know that he owned as many as 30,000 shares?

Mr. COVINGTON. I knew that from conversation. I never looked it up.

Mr. PECORA. Conversation with whom?

Mr. COVINGTON. Because it was well known that Mr. Mott and Mr. Ford were large owners of stock in the Group Co.

Mr. PECORA. When you had your second conversation with Mr. Mott on that subject of buying the stock from him, was the sale concluded as a result of the second conversation?

Mr. COVINGTON. Yes, sir.

Mr. PECORA. On the second conversation, did you acquaint Mr. Mott with your financial condition at that time?

Mr. COVINGTON. No, sir. It never came up.

Mr. PECORA. It never came up, either by any questions asked by Mr. Mott, or by any information you volunteered on the subject?

Mr. COVINGTON. No, sir.

Senator COUZENS. Was there any paper passed between you and Mr. Mott other than that note that Mr. Mott produced today?

Mr. COVINGTON. That is all.

Mr. PECORA. Were you in a position at that time to pay interest on that note for \$240,000?

Mr. COVINGTON. The interest on that note amounted to \$14,400 a year.

Mr. PECORA. Which was more than half your salary?

Mr. MOTT. It was; yes, sir. I felt that if I went to Mr. Mott—I figured it was about a half a point a year on the stock, and that in a year the stock would be $8\frac{1}{2}$. This was an investment I had made for my future, and I felt that if I went to Mr. Mott and talked to him, and he said anything about interest to me, that I would not have any great difficulty in getting him to renew the note for me with the interest added. I am trying to tell you, Mr. Pecora, that Mr. Mott had expressed a great interest in my future—a great interest. He had brought me from uptown downtown. That is, he had recommended me. He had recommended me in the merger, and I was endeavoring to do a very good job. I do not know what your records will show, but I thought that I had.

Mr. PECORA. Mr. Covington, is there any reason why you did not tell Mr. Mott anything at all about your financial responsibility at the time of this stock transaction?

Mr. COVINGTON. There was no particular reason. I just did not discuss it, was all. I never have discussed it.

Mr. PECORA. Did you think that was fair to Mr. Mott, to buy from him, for \$240,000, these shares of stock when you knew at the time you were not in a position to pay for it?

Mr. COVINGTON. Unless you take into consideration how Mr. Mott indicated that he felt toward me, and how I was striving to accumulate something for the future, you can so consider it, as not being fair.

Mr. PECORA. Had Mr. Mott's interest in you up to that time been of a character that indicated to you that he would sell you approximately a quarter of a million dollars worth of property on your note at a time when you knew you were not in a position to pay that?

Mr. COVINGTON. I do not understand.

Mr. PECORA. Suppose you listen to the reporter while he reads it. (The reporter read the pending question.)

Mr. COVINGTON. Our relations had been very pleasant, yes, sir; and I felt—I took a shot in the dark, so to speak. I thought I would ask him, and he told me he would do it.

Mr. PECORA. And he took a shot in the dark, and gave you \$240,000 of the stock without asking any questions about your financial responsibility?

Mr. COVINGTON. But he had the stock as collateral, Mr. Pecora, and that stock had sold around \$300 a share.

Mr. PECORA. We know all about that, Mr. Covington. And it had been steadily declining in value from that high-water mark of around \$300 a share to around \$8 a share in December 1932, to your knowledge, had it not?

Mr. COVINGTON. Yes, sir; and I felt that it was cheap.

Mr. PECORA. Did you feel it was cheap when it was selling for \$300 a share?

Mr. COVINGTON. I did not know whether it was cheap or not. Apparently it was not. It proved that it was not; so that has an effect upon my answer.

Mr. PECORA. As a matter of fact, your financial position today is such that you could not respond to any statutory liability?

Mr. COVINGTON. That is true, sir.

Mr. PECORA. As the owner of more than 30,000 shares of the group stock, assuming that you are under such liability?

Mr. COVINGTON. Assuming that.

Mr. PECORA. You knew that in December 1932?

Mr. COVINGTON. I did not think of the statutory liability in December 1932 when I purchased the stock. If I had known or thought that there would be a statutory liability, I would not have purchased the stock.

Senator COUZENS. That is interesting.

Mr. PECORA. When did you first come to the conclusion that you would not be under any such statutory liability?

Mr. COVINGTON. When did I come to the conclusion that I would not be?

Mr. PECORA. Yes; that you would not be.

Mr. COVINGTON. I am not under any conclusion yet that I will not be.

Mr. PECORA. You just said that if you had known in December 1932 that you would become liable as a stockholder of the group, you would not have purchased these 30,000 shares.

Mr. COVINGTON. What I meant to say, Mr. Pecora, was that if I had known that these events would take place, I certainly would not have purchased the stock. That is what I meant to say.

Mr. PECORA. What you meant to say and what you did say are two entirely different things, Mr. Covington.

Mr. COVINGTON. That is what I meant to say.

Mr. PECORA. What understanding was there between you and Mr. Mott at the time of this transaction regarding the payment of interest by you on this note of yours?

Mr. COVINGTON. There was none.

Mr. PECORA. That was not even discussed, when interest was to be paid?

Mr. COVINGTON. The interest was put at 6 percent.

Mr. PECORA. With no understanding as to the time of payment?

Mr. COVINGTON. No, sir.

Senator COUZENS. Where did you first get your banking experience, Mr. Covington?

Mr. COVINGTON. I started out in Lexington, Ky.

Senator COUZENS. When did you go to Detroit?

Mr. COVINGTON. I came to Detroit about 8½ years prior to February 11.

Senator COUZENS. What was your occupation when you first came to Detroit?

Mr. COVINGTON. I had been working in a bank. Mr. Sanger came to New York and was looking for a vice president, and I was recommended at the time.

Senator COUZENS. Was there any discussion between you and Mr. Mott as to what would become of any dividends on these 30,000 shares if they were paid?

Mr. COVINGTON. No, sir.

Senator COUZENS. In other words, you could go on and collect the dividends?

Mr. COVINGTON. I imagine if I collected the dividends I would apply them on the interest on the note.

Senator COUZENS. There was no discussion about it?

Mr. COVINGTON. No, sir.

Mr. PECORA. In December 1932 when you bought this stock, you held a position in the bank which paid you a salary of \$25,000 a year.

Mr. COVINGTON. Yes.

Mr. PECORA. That was practically your sole source of income?

Mr. COVINGTON. Practically.

Mr. PECORA. You are a man of family?

Mr. COVINGTON. Yes, sir. I have a wife.

Mr. PECORA. At that time you owed around \$127,000, which was very substantially undercollateralized?

Mr. COVINGTON. Yes, sir.

Mr. PECORA. And you were under an obligation to pay around \$14,000 a year interest, was it?

Mr. COVINGTON. No, sir.

Mr. PECORA. What was the interest? What were your interest obligations on that transaction?

Mr. COVINGTON. They ran about \$7,000.

Mr. PECORA. That left you, say, with \$18,000 available for all purposes?

Mr. COVINGTON. Yes, sir.

Mr. PECORA. \$18,000 a year?

Mr. COVINGTON. Yes, sir.

Mr. PECORA. Knowing that, in December 1932 you had this transaction with Mr. Mott, in the course of which you purchased from him this stock at \$240,000, and gave him your note bearing 6 percent interest for the full amount of the purchase price, which carried with an obligation to pay the interest in the sum of \$14,400 a year, out of the \$18,000 a year that was available to you, is that right?

Mr. COVINGTON. That is right; but I had felt that I could renew the note at half a point, half a point a year, which would make 8½, and I figured that the improvement would come, and that I could dispose of some of the stock, and when I got through I would have a substantial amount of stock and would have paid off Mr. Mott.

Mr. PECORA. As an executive officer of the bank, did you make loans to borrowers or customers of the bank on the same sort of business basis that was the foundation of this transaction of yours with Mr. Mott?

Mr. COVINGTON. I think the records will prove to you that the answer is no.

Mr. PECORA. You would not think of such a loan—

Mr. COVINGTON. This was a personal transaction.

Mr. PECORA. You would not think such a transaction would be a sound one for the bank, is that right?

Mr. COVINGTON. It would not be. An even collateral loan would not be a sound transaction.

Mr. PECORA. Did you ever offer to pay any interest on this note to Mr. Mott?

Mr. COVINGTON. So many things happened within 60 or 90 days that I was not in a position to pay any interest.

Mr. PECORA. Did he ever ask you to pay any interest?

Mr. COVINGTON. No, sir.

Mr. PECORA. When, for the first time, did he ask you to pay the principal, or any part thereof?

Mr. COVINGTON. Around the latter part of October or the first of November 1933.

Mr. PECORA. Have you the letter?

Mr. COVINGTON. Yes, sir.

Mr. PECORA. Will you please produce it?

Senator COUZENS. While you are looking that up, where did you owe this \$127,000?

Mr. COVINGTON. I owed \$97,000 of it to the Union Co.

Senator COUZENS. The Union Guardian Trust Co.?

Mr. COVINGTON. No; the Union Co.

Mr. PECORA. That was one of the units of the Guardian Detroit Union Group, was it not?

Mr. COVINGTON. Yes, sir.

Senator COUZENS. What security did you have for that?

Mr. COVINGTON. I had 500 shares of group stock. Later I gave them my home.

Mr. PECORA. That is, you gave them a mortgage on your home?

Mr. COVINGTON. I had a mortgage on my home, but it had been paid down, Mr. Pecora, and I gave them the equity in my home, which has since been sold, and applied on the note.

Senator COUZENS. It is now down to what?

Mr. COVINGTON. It just happened the other day that my house was sold, and I have not a record of it.

Do you want this, Mr. Pecora? [Handing paper to Mr. Pecora.]

Mr. PECORA. Yes. I offer in evidence the letter produced by the witness.

The CHAIRMAN. Let it be admitted.

(Letter Oct. 23, 1933, Mott to Covington, was received in evidence, marked "Committee's Exhibit No. 94, Jan. 18, 1934", and the same was subsequently read into the record by Mr. Pecora.)

Mr. PECORA. The letter just received in evidence as Committee Exhibit No. 94, of this date, written on the letter-head of Charles Stewart Mott, 1400 East Kearsley Street, Flint, Mich., is as follows:

OCTOBER 23, 1933.

Mr. HARRY COVINGTON.

% Bitting, Inc., 20 Exchange Place,
New York City, N.Y.

DEAR SIR: I hold your demand note, dated December 14, 1932, for \$240,000, given in purchase of 30,000 shares of Guardian Group stock. Please take this as formal demand for payment, with interest, and advise me promptly in regard to same.

Very truly yours,

C. S. MOTT.

And in handwriting, in ink, is the following inscription on the foot of the letter:

Received by hand from Mr. Mott between 10:30 and 11 a.m., Wednesday, November 1, 1933, at Sugar Co.'s New York manager's office.

H. C.

Mr. COVINGTON. It is "H. S. C."

Mr. PECORA. Yes, H. S. C. Is that handwritten inscription in your handwriting?

Mr. COVINGTON. Yes, sir; I wrote that.

Mr. PECORA. And it was placed by you there on the date you received the letter from Mr. Mott?

Mr. COVINGTON. Yes, sir.

Mr. PECORA. I notice this letter is addressed to you care of Bitting, Inc., 20 Exchange Place, New York City. Is that the Mr. Bitting whose name has been mentioned before this committee in the last 2 days, I think during the testimony given by Mr. Blair, as someone that he met in connection with a transaction with Goldman, Sachs & Co., or the Goldman-Sachs Trading Corporation?

Mr. COVINGTON. I think so; yes, sir.

Mr. PECORA. Did you know Mr. Bitting when Mr. Blair had that transaction with him?

Mr. COVINGTON. Yes, sir.

Mr. PECORA. Did you have anything to do with that transaction, Mr. Covington?

Mr. COVINGTON. I do not recall, Mr. Pecora. I read a part of that testimony, and I don't recall—

Mr. PECORA. You mean that you read a part of Mr. Blair's testimony given before this committee?

Mr. COVINGTON. I just read that part of it. I don't recall whether Mr. Bitting is the one that he referred to there, or who he was. I spoke to Mr. Blair, and I have a hazy remembrance of the early part of that. I spoke to Mr. Blair about the fact that Goldman-Sachs were buying an interest in some banks. It came to my attention in some way. And then Mr. Blair went to New York, and, as he testified here, the event took place.

Mr. PECORA. You met Mr. Blair in New York at that time in connection with that transaction, didn't you?

Mr. COVINGTON. I either went down on the train with him or met him.

Mr. PECORA. You had breakfast with him in the Hotel Biltmore on the occasion that he testified about here, didn't you?

Mr. COVINGTON. No, sir. I was not at that breakfast.

Mr. PECORA. Were you in any way an intermediary between Goldman, Sachs & Co., or their representative, and Mr. Blair, or anyone representing the company that Mr. Blair was an officer of, in connection with that transaction?

Mr. COVINGTON. I don't know what your definition of "intermediary" is, but—

Mr. PECORA. Well, did you help in the negotiations that had for their purpose the acquisition—

Mr. COVINGTON. No, sir.

Mr. PECORA. Of a large block of stock of the group, by Goldman, Sachs & Co.?

Mr. COVINGTON. I was with Mr. Blair, not with Goldman, Sachs & Co.

Mr. PECORA. I know that you were with Mr. Blair. And did you have any part in the negotiations that had for their objective the purchase by Goldman, Sachs & Co. at that time of 30,000 shares of stock of the group?

Mr. COVINGTON. I was at the first and second meeting; yes, sir.

Mr. PECORA. What part did you have in those negotiations?

Mr. COVINGTON. I was in the room. Mr. Blair conducted those negotiations. Mr. Sanger was with Mr. Blair, and as I recall it that was at the second meeting with Goldman-Sachs, and Mr. Blair and Mr. Sanger conducted mainly the negotiations.

Mr. PECORA. Why was your presence in New York rendered necessary at that time in connection with those negotiations?

Mr. COVINGTON. I suppose Mr. Blair felt he wanted me with him.

Mr. PECORA. Was that all? Just because Mr. Blair felt he wanted you with him?

Mr. COVINGTON. That is the only reason I know of. I sat, as any man will, in the room, and listened to the deal being made, and if I have any ideas I suggest them.

Mr. PECORA. You know that eventually Goldman, Sachs & Co. acquired 30,000 shares of the group stock, don't you?

Mr. COVINGTON. It is my understanding that they did.

Mr. PECORA. As a result of those negotiations.

Mr. COVINGTON. It is my understanding that they did.

Mr. PECORA. And do you know from whom Goldman-Sachs people acquired those 30,000 shares of group stock?

Mr. COVINGTON. I think it was Keane-Higbie; from them, through them.

Mr. PECORA. Through Keane, Higbie & Co.?

Mr. COVINGTON. Yes, sir; I think so.

Mr. PECORA. And it was shortly after Keane, Higbee & Co.'s capital stock was purchased by the group?

Mr. COVINGTON. I think it was during that time, but I don't know.

Mr. PECORA. Do you know that shortly after Goldman, Sachs & Co. so acquired those 30,000 shares of group stock, they sold them again?

Mr. COVINGTON. I understand that they did; yes, sir.

Mr. PECORA. Do you recall to whom they sold them?

Mr. COVINGTON. I don't know.

Mr. PECORA. You say you don't know?

Mr. COVINGTON. I don't know.

Mr. PECORA. You never heard?

Mr. COVINGTON. I don't know.

Mr. PECORA. Do you know what profit Goldman, Sachs & Co. made in that transaction?

Mr. COVINGTON. I don't. I only know from just—well, the price, as I recall it, at which they sold, which according to my memory was around 184 or 185. That figure came into the—

Mr. PECORA (interposing). You have no independent recollection that it was 184?

Mr. COVINGTON. I don't know. I saw it yesterday in Mr. Blair's testimony.

Mr. PECORA. Do you know for what price they bought those 30,000 shares?

Mr. COVINGTON. I believe it was around 120.

Mr. PECORA. That is right. Did you get any commission of any kind as a result of that transaction, from anybody?

Mr. COVINGTON. No, sir.

Mr. PECORA. Did you get any moneys at all, whether by way of fees, commissions, or for any service whatsoever as a result of that transaction?

Mr. COVINGTON. No, sir. I received no money.

Mr. PECORA. Did you receive property of any kind or of any value whatsoever?

Mr. COVINGTON. No, sir.

Mr. PECORA. Did anybody else, to your knowledge?

Mr. COVINGTON. I don't know of any.

Mr. PECORA. What was that answer?

Mr. COVINGTON. No, sir.

Mr. PECORA. Who handled that transaction in behalf of Goldman, Sachs & Co.? Was it your friend Mr. Bitting?

Mr. COVINGTON. No, sir.

Mr. PECORA. Who, then?

Mr. COVINGTON. Mr. Weinburg, as I recall it, was in the room with Mr. Blair and Mr. Sanger.

Mr. PECORA. What part did Mr. Bitting play in the transaction or in the negotiations that culminated in the transaction?

Mr. COVINGTON. I don't think he played any important part, or not that I know of.

Mr. PECORA. Well, whether an important part or not, what part did he play?

Mr. COVINGTON. I do not recall him playing any part of any consequence in it.

Mr. PECORA. Didn't you and Mr. Blair and Mr. Sanger meet him in connection with the transaction in New York?

Mr. COVINGTON. I don't believe we met Mr. Bitting; no, sir. I have no recollection of meeting him there.

Senator COUZENS. You said a while ago it came to your attention that Goldman, Sachs & Co. were buying some banks or bank stocks. Did that come to your attention from Mr. Bitting?

Mr. COVINGTON. It might have, but I cannot recall definitely, and so I cannot say.

Senator COUZENS. You do not deny that it came to your attention through Mr. Bitting, do you?

Mr. COVINGTON. I do not.

Mr. PECORA. When it came to your attention did you speak to any officer of the Group about it?

Mr. COVINGTON. To Mr. Blair.

Mr. PECORA. You spoke to Mr. Blair?

Mr. COVINGTON. Yes, sir.

Mr. PECORA. Did you succeed in arousing his interest in the matter?

Mr. COVINGTON. Yes, sir.

Mr. PECORA. And his interest was aroused to the point where the transaction was concluded eventually?

Mr. COVINGTON. Yes, sir.

Mr. PECORA. Do you know how long Goldman, Sachs & Co. held those 30,000 shares of stock after they had purchased them at \$120 a share?

Mr. COVINGTON. I don't remember; no.

Mr. PECORA. It was a very short period of time; wasn't it?

Mr. COVINGTON. I don't remember. I would have to look back in the records in order to find out.

Mr. PECORA. Do you know the circumstances under which those 30,000 shares were repurchased from Goldman, Sachs & Co. at \$184 a share?

Mr. COVINGTON. That is the figure that I take it—or that I saw in the testimony.

Mr. PECORA. I asked you: Do you know anything about the circumstances under which those 30,000 shares were purchased back from Goldman, Sachs & Co., for \$184 a share?

Mr. COVINGTON. I was asked to go down and see Mr. Weinburg, by, I believe, Mr. Blair. They felt that they did not want to have such a large holding in New York, as I recall it.

Mr. PECORA. Who felt that way, Mr. Blair?

Mr. COVINGTON. A number of people.

Mr. PECORA. And who were they?

Mr. COVINGTON. I can't remember all of them.

Mr. PECORA. Was Mr. Blair one of them?

Mr. COVINGTON. I could not say. I could not sit here and say that Mr. Blair was one of them; no.

Mr. PECORA. Were those people who had that feeling officers or directors of the group?

Mr. COVINGTON. Yes, sir.

Mr. PECORA. All right. Now you may go ahead and tell us about it.

Senator COUZENS. Just one minute, Mr. Pecora. He said he could not remember all of their names. Mr. Covington, can you remember any of them?

Mr. COVINGTON. Well, as I recall, it was Mr. Blair and Mr. Higbie. Those are the main ones that I remember.

Senator COUZENS. You remember those men as raising the question whether it was desirable to hold as much group stock in New York as was being bought by Goldman, Sachs & Co.; is that right?

Mr. COVINGTON. I have a faint recollection, Senator Couzens; and it was back in 1929 I think, or as I recall it.

Mr. PECORA. It was in 1930.

Mr. COVINGTON. It was in 1930?

Mr. PECORA. Yes.

Mr. COVINGTON. The early part of 1930?

Mr. PECORA. Not the early part of 1930. It was in the fall of 1930.

Mr. COVINGTON. Well, I don't remember it exactly.

Senator COUZENS. Did I understand Mr. Pecora to ask the witness if he knew anything about who purchased the stock?

Mr. PECORA. I asked him if he knew anything about the circumstances under which the stock was repurchased at \$184 a share from Goldman, Sachs & Co.

Mr. COVINGTON. I think Mr. Blair would have told me that.

Mr. PECORA. Tell me what you know about it.

Mr. COVINGTON. All that I know about it is, I went to New York at their suggestion. Well, I was going down there anyway, and they asked me if I would ask Goldman, Sachs & Co. if they wanted to sell some of their stock back. I did. Mr. Weinburg was the man who negotiated it, as I recall. Mr. Weinburg said he was interested and that he would do it. There was a call on the telephone, I believe, and they talked either to Mr. Blair or Mr. Higbie—yes; it was Mr. Blair or Mr. Higbie—and he said he would sell it, and that is the way the purchase came about.

Senator COUZENS. Sell all of it?

Mr. COVINGTON. Sell 25,000 shares, I believe, was the amount, but I am not certain about the amount.

Mr. PECORA. You are right; 25,000 shares were purchased back.

The CHAIRMAN. Was that repurchased at the market?

Mr. COVINGTON. I am confused somewhat, Senator Fletcher, because I saw the price of 184 in the testimony. Whether the price was 180 or 190 or 184, or somewhere in between, I could not testify, because I did not see the transaction completed.

The CHAIRMAN. Do you know what the market was for the stock at that time?

Mr. COVINGTON. I would have to look that up. I don't remember exactly what the market was then. It was higher than that.

Mr. PECORA. Is Mr. Higbie here?

Mr. HIGBIE. Yes, sir.

Mr. PECORA. Take the stand, please.

Senator COUZENS. Just one minute, Mr. Pecora.

Mr. PECORA. Certainly, Senator Couzens.

Senator COUZENS. Mr. Covington, you have not overlooked the fact that you are under oath here? And you have not overlooked the fact that you testified that you know of no commissions being paid and that you received no money or property or anything of value in this Goldman-Sachs transaction?

Mr. COVINGTON. No, sir. I was to receive something but I never did.

Mr. PECORA. Well, sit down, Mr. Covington, and tell us about that. What were you to receive?

Mr. COVINGTON. I was to receive—well, after the transaction was over I was to receive \$25,000.

Mr. PECORA. From whom?

Mr. COVINGTON. From Mr. Higbie.

Mr. PECORA. For what?

Mr. COVINGTON. For services rendered.

Mr. PECORA. What were those services?

Mr. COVINGTON. Because I had spoken to Mr. Weinburg, and he had agreed to sell the stock back.

Mr. PECORA. At \$184 a share?

Mr. COVINGTON. Yes, sir.

Mr. PECORA. And you had that understanding with Higbie?

Mr. COVINGTON. I did not have any understanding until afterward, Mr. Pecora.

Mr. PECORA. Well, when did you have that understanding with Mr. Higbie?

Mr. COVINGTON. It was after the transaction had been completed by Mr. Higbie.

Mr. PECORA. That, is, the transaction involving the repurchase of 25,000 of the 30,000 shares from Goldman, Sachs & Co.?

Mr. COVINGTON. Yes, sir; afterward. He felt that I had done a good job, was my understanding. And I was to get \$25,000, which I never got. It was all forgotten, and nothing ever came out of it.

Mr. PECORA. What job had you done that you called a good job or that he called a good job?

Mr. COVINGTON. The fact that I went down and spoke to Mr. Weinburg, and asked Mr. Weinburg if he wanted to sell the stock back, and he agreed to do it, and when he agreed to do it, it was my understanding that they thought I had done a good job. That was all there was to it. I never received it, and never asked for it, and it just passed by the door.

Mr. PECORA. Did anyone else promise to give you any money or anything of value, or—

Mr. COVINGTON (interposing). Not a thing.

Mr. PECORA (continuing). Or anything else for services you rendered in connection with the transaction by which there was a purchase of 30,000 shares by Goldman, Sachs & Co., or the transaction by which there was a sale of 25,000 of the 30,000 shares held by Goldman, Sachs & Co.?

Mr. COVINGTON. No, sir.

Senator COUZENS. Did you when in New York have any connection with any other group or company with respect to this transaction?

Mr. COVINGTON. No, sir.

Senator COUZENS. Did you ever hear of the firm of H. G. Lapham & Co.?

Mr. COVINGTON. I have heard of them; yes, sir.

Senator COUZENS. Do you know any of the partners of that firm?

Mr. COVINGTON. I don't know that I do. I don't know that I knew them then.

Senator COUZENS. Did you ever have any discussion with them?

Mr. COVINGTON. No, sir.

Senator COUZENS. You never met any of their partners or employees?

Mr. COVINGTON. I don't know who their partners were at that time. I don't know, and therefore I could not answer that question. I certainly have nothing that sticks in my mind. But I would like to get this into your record: That I did not receive 1 cent in that transaction.

Senator COUZENS. All right.

The CHAIRMAN. Did you call on the firm of H. G. Lapham & Co. about this matter?

Mr. COVINGTON. No, sir. I never talked to Lapham & Co. that I have any recollection of at all. If I did, it was about something that did not have anything to do with this particular matter.

Mr. PECORA. What was the business that H. G. Lapham & Co. conducted at that time?

Mr. COVINGTON. I don't know. I only know of the name in a casual way. I imagine it was a bond and brokerage business, but I don't know. I never had any contact with Lapham & Co. of any kind to my knowledge or that I know of.

Mr. PECORA. All right.

Mr. COVINGTON. Am I now excused?

Mr. PECORA. You better wait because I am going to examine Mr. Higbie and you might be interested in his testimony.

The CHAIRMAN. We are just excusing you for the present. We may want you later.

Mr. COVINGTON. All right.

(Thereupon the witness was temporarily excused.)

Mr. HIGBIE. Do you want me?

The CHAIRMAN. Yes. Please stand, hold up your right hand, and be sworn: You solemnly swear that you will tell the truth, the whole truth, and nothing but the truth, regarding the matters now under investigation by the committee. So help you God.

Mr. HIGBIE. I do, sir.

TESTIMONY OF CARLTON M. HIGBIE, INVESTMENT BROKER, DETROIT, MI.

Mr. PECORA. Will you please give your name, address, and occupation to the committee reporter?

Mr. HIGBIE. My name is Carlton M. Higbie, Detroit, and I am an investment broker.

Mr. PECORA. How long have you been engaged in that business?

Mr. HIGBIE. Since I was 18 years old, and I am 43 now.

Senator COUZENS. Do you consider the selling of commercial paper as being in the investment-brokerage business?

Mr. HIGBIE. It is a phase of it, Senator Couzens, and probably the best phase.

The CHAIRMAN. What is the general scope and what are the functions of an investment banker?

Mr. HIGBIE. Well, sir, the purchase and sale of securities, and probably there are many adjuncts, such as the brokerage end of the business, and bonds, equities, and such as that.

The CHAIRMAN. Do investment bankers conduct a brokerage business in connection with their work?

Mr. HIGBIE. I think they do as a rule, Senator Fletcher, either for their own account or for their secondary markets.

Mr. PECORA. Now, Mr. Higbie, did you hear the testimony of the last witness, Mr. Covington?

Mr. HIGBIE. Yes, sir.

Mr. PECORA. Do you recall the transaction in the course of which 30,000 shares of the capital stock of the Guardian Detroit Union Group, Inc., were sold to Goldman, Sachs & Co., or their agent or representative, for \$120 a share?

Mr. HIGBIE. Very well.

Mr. PECORA. Did you have anything to do with that transaction?

Mr. HIGBIE. With the purchase of the stock?

Mr. PECORA. By Goldman, Sachs & Co.; yes.

Mr. HIGBIE. May I have the question again, because I did not quite catch it.

Mr. PECORA. Did you have anything to do with that transaction?

Mr. HIGBIE. With the purchase of the stock?

Mr. PECORA. Yes; by Goldman, Sachs & Co.

Mr. HIGBIE. By Goldman, Sachs & Co.?

Mr. PECORA. That is right.

Mr. HIGBIE. Well, I came into the thing after the stock had been sold to Goldman, Sachs & Co.

Mr. PECORA. Who had sold it to Goldman, Sachs & Co.?

Mr. HIGBIE. Mr. Blair, Mr. Covington, and Mr. Sanger.

Mr. PECORA. When?

Mr. HIGBIE. I think it was probably the latter part of July or early in August.

Mr. PECORA. Of 1930?

Mr. HIGBIE. It was 1929.

Mr. PECORA. Of 1929?

Mr. HIGBIE. Yes, sir.

The CHAIRMAN. Do you mean that they had agreed to sell or that they had actually sold it?

Mr. HIGBIE. They had agreed to sell it. I think Sidney Weinburg was a pretty good trader, and he probably had more in the form of a commitment on it than they could make good on.

Mr. PECORA. You say you came into the picture after the sale was made. How long after the sale to Goldman, Sachs & Co. did you come into the picture?

Mr. HIGBIE. I was in New York on other business, and was taking breakfast in the Biltmore Hotel one morning and had finished, and

I saw over in the corner three or four of my friends of the Union Commerce Corporation, and—

Mr. PECORA (interposing). Who were they?

Mr. HIGBIE. As I remember it, they were Mr. Sanger, Frank Blair, Harry Finkenstaedt, and I wouldn't be sure whether Covington was there or not. He had been with them before, but I wouldn't swear that he was there then.

Senator COUZENS. Is that the time when they told you they had sold 30,000 shares?

Mr. HIGBIE. We chatted all through breakfast, and then finally Harry told me about it, that they had made this arrangement, and he thought it was a grand thing because Goldman, Sachs & Co. had all these friends, and, as you know, they used to be in the commercial paper business. I knew how many companies they controlled and the balances they had and their general position in the United States, and I thought it was a fine idea.

Mr. PECORA. During that conference did they tell you where they were going to get the 30,000 shares?

Mr. HIGBIE. No, sir; that was not discussed.

Mr. PECORA. Did they tell you that they had actually sold the 30,000 shares or that they were committed to sell them?

Mr. HIGBIE. As I remember it they did.

Mr. PECORA. They told you what?

Mr. HIGBIE. That they had sold the stock.

Mr. PECORA. Had the stock been delivered when you talked to them?

Mr. HIGBIE. Oh, no. They had only seen them in the afternoon and this was the following morning at breakfast.

Mr. PECORA. Now, you had learned of it while you were in New York at the Biltmore Hotel?

Mr. HIGBIE. Yes, sir.

Mr. PECORA. And you first learned of it through Mr. Covington, whom you saw in New York at that time?

Mr. HIGBIE. No. You see, I learned of it at breakfast that morning, when with these other gentlemen, you see.

Mr. PECORA. With what other gentlemen?

Mr. HIGBIE. With Mr. Frank Blair, and Harry Sanger, and Harry Finkenstaedt, and what they said first I don't remember now.

Mr. PECORA. What did they say about that matter that indicated to you they had sold or agreed to sell those 30,000 shares to Goldman, Sachs & Co.?

Mr. HIGBIE. Well, they said they had had a conference with Catchings and Weinburg the day before.

Mr. PECORA. Yes. Go ahead.

Mr. HIGBIE. That they had indicated an interest in owning this block of stock, and that they had told them they could have it at \$120 a share.

Senator COUZENS. What block of stock?

Mr. HIGBIE. Thirty thousand shares of stock of the Union Commerce Investment Corporation.

Senator COUZENS. Where was that stock? You said, "This block of stock" or something of that kind, and what block of stock were you talking about?

Mr. HIGBIE. Well, I am just using the language of the Street. Those 30,000 shares. I am not saying any specific block of stock.

Mr. PECORA. Shortly after that Keane, Higbie & Co., Inc., had a transaction with the Union Commerce Investment Corporation whereby the latter acquired all of the capital stock of Keane, Higbie & Co., Inc.; isn't that so?

Mr. HIGBIE. Yes, sir; that is true.

Mr. PECORA. And at the time of that transaction between the Union Commerce Investment Co. and Keane, Higbie & Co., were you a large stockholder of Keane, Higbie & Co.?

Mr. HIGBIE. Yes, sir; I was.

Mr. PECORA. Were you the largest individual stockholder of it at that time?

Mr. HIGBIE. I had not been up to that time, but I acquired that interest over the previous 2 years because my partner wanted to retire, and he made an arrangement with me whereby he sold to me half of his stock, and that put me up to the 60-percent class and him down to 20 percent.

Mr. PECORA. And that had made you the owner of more than 60 percent?

Mr. HIGBIE. Of 60,500 shares of stock.

Mr. PECORA. Of the capital stock of Keane, Higbie & Co.?

Mr. HIGBIE. Yes, sir.

Mr. PECORA. And the total number of shares outstanding was 100,000?

Mr. HIGBIE. Yes, sir.

Mr. PECORA. How long after you were told by Blair, Finkenstaedt, Stanger, and Covington, in New York, that they had sold 30,000 shares of Union Commerce Investment Co. stock to Goldman, Sachs & Co. was this transaction had between Keane, Higbie & Co. and the Union Commerce Investment Co.?

Mr. HIGBIE. I would say 20 days, roughly.

Mr. PECORA. As a result of that transaction you parted with all of your shares of capital stock of Keane, Higbie & Co. in favor of Union Commerce Investment Co. stock, didn't you?

Mr. HIGBIE. In exchange of stock; yes, sir.

Mr. PECORA. How many shares of stock of the latter corporation did you get for your 60-odd thousand shares of Keane, Higbie & Co. stock?

Mr. HIGBIE. I got 60,500 shares of stock of the Union Commerce Investment Co., of which I had agreed to dispose of 30 percent.

Mr. PECORA. It was an exchange, share for share of stock?

Mr. HIGBIE. Yes, sir. And 30 percent to them, which as I recall it was 18,000 shares.

Senator COUZENS. Thirty percent to them, you say. Who is that?

Mr. HIGBIE. The Goldman, Sachs Co. In the deal they did not have any stock available in their treasury, I mean the Union Commerce Investment Co., to deliver to Goldman, Sachs & Co., for which they had arranged to make delivery, and consequently in our negotiation we agreed that we would give up 30 percent of our stock for delivery to Goldman, Sachs & Co.

Senator COUZENS. Who are "we" that you speak of?

Mr. HIGBIE. That is, the stockholders of Keane, Higbie & Co.

Senator COUZENS. So that it was 30,000 of the 100,000 shares?

Mr. HIGBIE. That is where 30,000 shares went. We did not wind up with the 100,000 shares. We wound up with the difference, 70,000 shares.

Mr. PECORA. In order to enable the Union Commerce Investment Corporation to conclude this transaction with Keane, Higbie & Co., Inc., it was necessary for the Union Commerce Investment Corporation to increase its capital stock, wasn't it?

Mr. HIGBIE. Yes, sir; it was.

Mr. PECORA. Do you know of any reason why the increase was not made sufficiently large to enable the Union Commerce Investment Corporation to deliver directly to Goldman, Sachs & Co. the 30,000 shares which you say Blair and his associates told you they had agreed to sell to Goldman, Sachs & Co.?

Mr. HIGBIE. Yes, sir; I do.

Mr. PECORA. Now, what was it?

Mr. HIGBIE. That reason was: That due to the fact that Goldman-Sachs was a national figure in finance, as you probably can recall, and that their stock was gyrating around and doing all sorts of things on the up side, it was considered very definitely an advantageous acquisition to the stockholders. So the minute that particular deal leaked out, and the fact that our deal was also under consideration, the stock went above the price of \$120 a share at which they had contracted to deliver it. Consequently, had they made it any large amount of stock when they presented the matter to their stockholders, the stockholders wouldn't have waived their rights to subscribe at 120 but would have taken over the stock as it was offered. That is perfectly logical, you see. A stockholder would not waive his right to sell at 120 if the stock was then selling at 140, would he? Anyway, they don't usually do it.

Mr. PECORA. Did the stockholders of the Union Commerce Investment Corporation waive their preemptive right to subscribe for this additional stock?

Mr. HIGBIE. No, sir. Well, they might have subsequently, but not at that time. I think subsequently there was something about that, and I think I saw it printed in Mr. Blair's testimony, that they had all their preemptive rights at the time of those two transactions, at the time the Keane, Higbie & Co. transaction took place, and our sale to Goldman, Sachs & Co.

Mr. PECORA. Did they subscribe for the additional stock in the exercise of their preemptive rights?

Mr. HIGBIE. On the 100,000 shares?

Mr. PECORA. Yes.

Mr. HIGBIE. No. Well, some did, but the bulk of them did not. I think only one or two people did.

The CHAIRMAN. What stock was this block of 30,000 shares in—in what corporation?

Mr. PECORA. The Union Commerce Investment Corporation.

Mr. HIGBIE. Yes; the Union Commerce Investment Corporation. It was this way: An equal transfer of our assets, or it called for a transfer of our assets for shares of their stock, and we had agreed to relinquish to Goldman, Sachs & Co. 30,000 shares in order to enable them to fulfill their contract.

The CHAIRMAN. What were you paying for the Union Commerce stock?

Mr. HIGBIE. We didn't buy it, sir. We took it in exchange.

Mr. PECORA. Exchanged the shares.

Mr. HIGBIE. No money changed hands.

The CHAIRMAN. What did you value it at? You estimated it at some figure?

Mr. HIGBIE. What did we think our stock was worth?

The CHAIRMAN. Yes.

Mr. HIGBIE. Well, we thought it was worth a lot; that it was our whole life. We were doing very well. We were making a couple of millions a year. We made, I think, over 2 million dollars the first 8 months of that year alone.

Mr. PECORA. That does not answer the chairman's question as to what you thought it was worth.

Mr. HIGBIE. Well, I doubt very much if I would have sold it for money.

Mr. PECORA. What did you think it was worth—is the question, Mr. Higbie.

The CHAIRMAN. You must have had some estimate of its value that you made in the exchange. You made the exchange on some basis, and that basis must have been the value of the stock.

Mr. HIGBIE. It was worth as much as—I don't want to parry your question, Senator. I don't intend to do that at all. But it is pretty hard to state. In exchanging stock of a corporation for stock of another corporation in which you will participate and share in the management and contribute what you think is your ability, you know then that you are going to get a part of your own activity and result of your own efforts. Isn't that so, Senator?

The CHAIRMAN. That is quite true; but in doing that you estimate the value of the shares of stock in both corporations in making such an exchange.

Mr. HIGBIE. I thought that my stock was probably worth—I had not put a dollar of value on it. I had made a few sales of stock to friends who could do me some good, and I never made a sale of Keane-Higbie stock for literally money, as such, in my life, any more than I would have sold my home and my children. That was my attitude toward that company.

The CHAIRMAN. What did you get for the stock when you sold it?

Mr. HIGBIE. You mean prior to the Keane-Higbie transaction?

The CHAIRMAN. Yes.

Mr. HIGBIE. The last sale made was 2,000 shares to a friend of mine at \$100 a share, back in June or July.

The CHAIRMAN. What was the par value of your stock?

Mr. HIGBIE. \$10.

The CHAIRMAN. \$10?

Mr. HIGBIE. Yes, sir. I never delivered that stock, because this deal came off, and he was going to come in as a partner, and he never did. I finally paid him the \$40,000 premium to drop out of the picture and take delivery of \$14,000 that he had paid me down on the transaction, as it was not a completed transaction.

Mr. PECORA. Mr. Higbie, who initiated the negotiations that led to the acquisition of all of the capital stock of Keane, Higbie & Co. by the Union Commerce Investment Co.?

Mr. HIGBIE. I did.

Mr. PECORA. And when did you do that?

Mr. HIGBIE. Well, actually initiating it—I might have made the comment to Mr. Blair that morning.

Mr. PECORA. That morning in New York?

Mr. HIGBIE. Yes, sir.

Mr. PECORA. At the hotel where you were?

Mr. HIGBIE. The thing that actuated that was the fact that Bancamerica had bought Blair & Co., or one of the big banks, I think it was the American Trust Co. out in Los Angeles, that had known one of my friends in our line of business out there, and the Continental had the Chicago corporation, and it seemed to be the order of the day that banks were getting affiliates that had to do with financing.

Mr. PECORA. You initiated those negotiations after you had been told by Blair and others of the transaction whereby Blair had agreed to sell 30,000 shares?

Mr. HIGBIE. Yes, sir.

Mr. PECORA. To Goldman, Sachs & Co. of the Union Commerce Investment Corporation stock?

Mr. HIGBIE. Yes, sir; I did.

The CHAIRMAN. And you thought it was a desirable thing to get Goldman-Sachs in and there were advantages of having them in, and yet within a couple of weeks or so you paid them \$40,000 to get out?

Mr. HIGBIE. I think I did not make myself clear, Senator. I did not make myself clear on that point.

Mr. PECORA. At the time you initiated these negotiations to sell the Keane, Higbie & Co. stock to the Union Commerce Investment Co. you were perfectly satisfied with Keane, Higbie & Co. as a corporation doing a flourishing and profitable business?

Mr. HIGBIE. Yes; I was.

Mr. PECORA. And you were the largest and majority stockholder of Keane, Higbie & Co.?

Mr. HIGBIE. That is right.

Mr. PECORA. You say you regarded it more or less as your life work?

Mr. HIGBIE. That is right.

Mr. PECORA. You looked upon it not only as a good business association but with a great deal of personal pride and sentimental affection?

Mr. HIGBIE. Very definitely; yes, sir.

Mr. PECORA. Under those circumstances what prompted you to propose to Blair, then the head of the Union Commerce Investment Corporation, to sell to him this corporate creature of yours in which you took such great pride and which you said you would not have sold for money any more than you would have sold a member of your family?

Mr. HIGBIE. That is right. The general picture was that they were in a larger business. They had more lines of business than we had, and it gave me an opportunity to participate in what I considered one of the greatest developments in Michigan at the time.

The CHAIRMAN. Let me understand this—

Mr. HIGBIE. I made a mistake, sir. You asked me a question about the \$40,000.

The CHAIRMAN. Yes.

Mr. HIGBIE. I sold to one of my close personal friends who wanted to come into business with me 2,000 shares of the stock in June or July.

The CHAIRMAN. Yes.

Mr. HIGBIE. He didn't want to make the definite sale, but he said that he would buy the stock, and he would like to pay me so much money as he had and it would not be considered part of the whole, but he would like that honorable right on my part to take delivery as it came along, and he wanted to come in and work for me, so he paid me \$14,000; and then this bank matter came along and he said he would not work for a bank because he knew that they were a small stockholder in the whole as far as the bank was concerned, and he asked me to do something about canceling the transaction, and on account of the fact that the stock was selling at a higher price then I paid him \$40,000 to let me out of that transaction and delivered him \$140,000 worth of Keane-Higbie stock at a hundred dollars a share.

The CHAIRMAN. Yes. That is what I wanted to get.

Mr. HIGBIE. That is entirely different from the Goldman-Sachs, had nothing to do with it at all.

The CHAIRMAN. Certainly; that is entirely different.

Mr. HIGBIE. That is right.

The CHAIRMAN. Because Goldman-Sachs, whom you were anxious to get into the corporation—

Mr. HIGBIE. I will explain that.

The CHAIRMAN. Then got out in a short time, and they made an actual profit of a million dollars?

Mr. HIGBIE. I can explain that just as clearly as can be.

The CHAIRMAN. That is the explanation itself. They made a profit, didn't they, of a million dollars cash?

Mr. HIGBIE. Sir? Goldman?

The CHAIRMAN. Yes.

Mr. HIGBIE. I think they did; or more.

Mr. PECORA. A million dollars cash and 5,000 shares?

Mr. HIGBIE. Of stock.

Mr. PECORA. At the time that you spoke to Blair and proposed to him that the Union Commerce Investment Corporation acquire all of the capital stock of this Keane, Higbie & Co. that was your life work, what did you consider was the fair and reasonable value of the stock of Keane, Higbie & Co.?

Mr. HIGBIE. Dollar value?

Mr. PECORA. Yes.

Mr. HIGBIE. I never made an estimate of it in that light.

Mr. PECORA. Did you consider it was worth as much at that time as the capital stock of the Union Commerce Investment Co.?

Mr. HIGBIE. I certainly thought that its intrinsic worth, regardless of market value, was fully equal to that other.

Mr. PECORA. Did you consider it was worth more than the other at that time?

Mr. HIGBIE. I don't know as I ever put that interpretation on it, sir.

Mr. PECORA. Well now, wasn't it necessary for you as the owner of 60,500 shares, or 60½ percent of the total outstanding capital stock of Keane, Higbie & Co., to reach some conclusion as to whether or not, in exchanging that stock on a share-for-share basis for the stock of the Union Commerce Co., you were making a profitable business deal for yourself?

Mr. HIGBIE. Not necessarily, Mr. Pecora, I was worth 5 or 10 million dollars at that time, and another million more or less didn't make a bit of difference to me.

Mr. PECORA. Didn't make much difference to you?

Mr. HIGBIE. You can look at my tax record and see where I paid nearly \$800 000 in taxes in those 3 years. That was assessed, and I paid something like \$702,000.

Mr. PECORA. You felt that it was so much money that it was not of any consequence to you whether or not, when you proposed to exchange your 60,500 shares of the stock of this favorite corporation of yours for an equal number share of Union Commerce Co., you were making a good business transaction for yourself?

Mr. HIGBIE. I guess I did.

Senator COUZENS. You made the comment a moment ago that you paid \$800,000 of income tax, and then you modified it and said you were assessed.

Mr. HIGBIE. I became insolvent, Senator, and some of the taxes are still levied, and the Government has elected to take a lien on all my land and real estate and everything else I have, I guess, to pay the balance, and it is secured several times, many, many times, according to what I paid for the land.

Senator COUZENS. That was over what years?

Mr. HIGBIE. 1928, 1929, and 1930.

Mr. PECORA. Now, Mr. Higbie, you had a pretty well defined idea of the value of Keane, Higbie & Co. stock when you proposed to sell it to the Union Commerce in exchange for its own shares?

Mr. HIGBIE. Yes, sir.

Mr. PECORA. What did you think it was worth at that time?

Mr. HIGBIE. What did I think Keane-Higbie was worth?

Mr. PECORA. Yes, stock, how much a share?

Mr. HIGBIE. Well, I would not be able to answer specifically that question.

Mr. PECORA. My goodness, Mr. Higbie; you are a broker, you are an investment dealer and have been for years. This corporation called Keane, Higbie & Co. was your favorite child.

Mr. HIGBIE. Yes.

Mr. PECORA. You had such a sentimental affection for it that you said that you would not sell it for money any more than you would sell a member of your family for money. Now, didn't you have some idea of what that stock was worth?

Mr. HIGBIE. I will give you an idea. I sold this 2,000 shares to one of my closest personal friends at a hundred, and I didn't want to sell it to him, but he teased me and begged me to sell it a couple of months before.

Mr. PECORA. You did him a favor by selling it to him?

Mr. HIGBIE. I did him a favor, yes.

Mr. PECORA. What did you think was the fair, reasonable, intrinsic value or market value of the stock in that summer?

Mr. HIGBIE. I would not be able to answer it.

The CHAIRMAN. Was it listed on the market?

Mr. HIGBIE. Oh, Lord, no, sir.

Mr. PECORA. It was very closely held, wasn't it?

Mr. HIGBIE. Yes, sir.

Mr. PECORA. There were only 19 stockholders of record?

Mr. HIGBIE. Something like that; I don't remember.

Mr. PECORA. You were the majority owner?

Mr. HIGBIE. That is right.

Senator COUZENS. When you said you were worth between 5 and 10 million dollars and a million didn't make much difference, what did you include Keane-Higbie's firm as a whole worth in that picture of your value of 5 or 10 million dollars?

Mr. HIGBIE. Well, it would all depend on the time that you set, you see.

Senator COUZENS. I am talking about the time that Mr. Pecora is asking you about.

Mr. HIGBIE. Well I would say a hundred and forty or fifty dollars a share would have been cheap for it.

Mr. PECORA. \$140 or \$150 would have been cheap?

Mr. HIGBIE. Let's see. Now, we can figure it out this way: The stocks, the worst ones, were selling at 10 times their earnings. On that basis our stock was worth \$200 a share, wasn't it? I will have to figure it out.

Mr. PECORA. I don't know. I was never a stockholder of it, and it was never a baby of mine.

Mr. HIGBIE. I know it. Here, we made \$20 a share the first 8 or 9 months. I haven't the figures right in my hand here. Ten times that would be two hundred.

Mr. PECORA. Yes. So you thought \$200 a share was a fair value for it, didn't you?

Mr. HIGBIE. Now, Mr. Pecora, I would not say that.

Mr. PECORA. I am asking you to tell us.

Mr. HIGBIE. I could not answer you.

Mr. PECORA. You don't know what the value of the stock was of your own company, this favorite child of yours?

Mr. HIGBIE. No, sir.

The CHAIRMAN. You knew the value of the Union Commerce stock?

Mr. HIGBIE. Yes. I knew what its book value was and what its earnings were, sir.

The CHAIRMAN. What was its value at the time you exchanged the stock?

Mr. HIGBIE. I think its book value was 52, and it was earning about \$2.54 a share or \$2.50 a share in the first 6 months.

The CHAIRMAN. You now say that you valued the Keane-Higbie stock at \$200 and you were willing to take share for share at 50?

Mr. HIGBIE. Yes, sir. The reason for that was that they had possibilities, coupled with our business, and the other things that they were doing, that might lead them a long way.

Mr. PECORA. You were a director of the Union Commerce Investment Co. at the time that you proposed to Blair, its head, that it acquire all of the capital stock of Keane, Higbie & Co., weren't you?

Mr. HIGBIE. I think I was. I doubt if I had ever attended a meeting, but I think I was a director. I think when they merged the National Bank of Commerce and the Union Trust Co., I believe that that automatically elected all the directors to the combined company, and I spent a good deal of my time around the country working on deals and things like that and didn't pay much attention to detail and seldom attended any directors' meetings of any kind.

Mr. PECORA. And you were also at that same time not only the majority stockholder but an officer and director of Keane, Higbie & Co., weren't you?

Mr. HIGBIE. Yes, sir.

The CHAIRMAN. The committee will take a recess until 2 o'clock.

(Accordingly, at 1 p.m., a recess was taken until 2 p.m. of the same day.)

AFTERNOON SESSION

The hearing was resumed at the expiration of the recess.

TESTIMONY OF CARLTON M. HIGBIE—Resumed

Senator COUZENS (presiding). You may proceed, Mr. Pecora.

Mr. PECORA. In connection with the negotiations that led to the purchase of all of the capital stock of Keane, Higbie & Co. by the Union Commerce Investment Co., did you cause to be prepared a balance sheet or audit showing the condition of Keane, Higbie & Co. at that time?

Mr. HIGBIE. In answer to that, the board of directors of the group designated John Stalker to investigate the affairs of Keane, Higbie & Co. and I designated one of my associates, or partners, as we call them, and they went over the affairs of our company in quite some detail and appraised all of our assets and approved them for the group.

Mr. PECORA. As a result of that, what was ascertained to be the book value of Keane, Higbie & Co.'s stock?

Mr. HIGBIE. My memory is that it was in excess of \$60 a share.

(The chairman entered the room and presided to the conclusion of the session.)

Mr. PECORA. What was ascertained at that time to be the book value of the capital stock of the Union Commerce Investment Corporation?

Mr. HIGBIE. I believe \$52 a share, if my memory serves me rightly.

Mr. PECORA. And that was made known to you?

Mr. HIGBIE. Yes.

Mr. PECORA. You were willing to exchange your 60,500 shares, having a book value of something in excess of \$60 a share, for an equal number of shares of the Union Commerce Co., having a book value of around \$50 a share, were you?

Mr. HIGBIE. Yes, sir.

Mr. PECORA. That proposal to acquire the capital stock of Keane, Higbie & Co. was in due course submitted to the directors of Union Commerce Investment Co., was it not?

Mr. HIGBIE. It was, sir; and I believe it was taken up individually with the directors first, and then we called a directors' meeting, and I think there was practically the full board of directors, at which time it was ratified without dissent and subsequently submitted to the stockholders, of course.

Mr. PECORA. At that time you have already told us you felt your stock was worth about \$200 a share, the Keane, Higbie & Co. stock you then owned?

Mr. HIGBIE. I would say, if you treated it as you would any other stocks at the time, it would be worth 8 to 10 times earnings or more, and that would have made it from \$150 to \$200 a share at least.

Mr. PECORA. Do you know what was the market value at that time of the Union Commerce Co.'s stock?

Mr. HIGBIE. Yes. When we started to negotiate it was around \$120. When we got the negotiations a little further ahead I think it was selling in the neighborhood of \$138 to \$140.

Mr. PECORA. Knowing that, you still were willing to part with your 60,500 shares of Keane, Higbie & Co. stock, which you thought were worth around \$200 a share, for an equal number of shares of the other company worth in the market then around \$138.

Mr. HIGBIE. That is right.

Mr. PECORA. Were you present at a meeting of the board of directors of the Union Commerce Corporation that was held in the summer of 1929 at which there was presented to the board the proposition to acquire the capital stock of Keane, Higbie & Co.?

Mr. HIGBIE. I went to the meeting and offered to leave the room.

Mr. PECORA. Offered to what?

Mr. HIGBIE. To leave.

Mr. PECORA. Did you leave?

Mr. HIGBIE. They requested me not to leave—the directors.

Mr. PECORA. That meeting was held on August 20, 1929, was it not?

Mr. HIGBIE. Yes, sir.

Mr. PECORA. Let me read to you from a photostatic copy which I have before me of the minute book of the board of directors of the Union Commerce Co. the following excerpts from the minutes of the meeting of the board held on that date, August 20, 1929 [reading]:

The President submitted a proposal for the acquisition by Union Commerce Corporation of the capital stock, or at least 75 percent thereof, of Keane, Higbie & Co., a corporation organized under the laws of the State of Michigan, in exchange for its own shares. There were submitted for the consideration of the board, financial statements of both Keane, Higbie & Co. and of this corporation showing the book value of the stock of the respective institutions and their earnings, and consideration was then given to the advantages and benefits to be derived by this corporation from the acquisition of the capital stock of said Keane, Higbie & Co., and after a full discussion the following resolution was presented:

"Whereas the board of directors of Union Commerce Corporation declare it to be advisable and expedient that this corporation acquire the capital stock of Keane, Higbie & Co., a corporation of Detroit, Mich., according to the proposition presented by the president; that is, to exchange the stock of this corporation for the stock of said Keane, Higbie & Co., upon the basis of 1 share of stock of this corporation, having a par value of \$20 each, for 1 share of the stock of said Keane, Higbie & Co., said shares having a par value of \$10 each, provided that at least 75 percent of the outstanding capital stock of said Keane, Higbie & Co. be so acquired: Now, therefore, be it

"Resolved. (a) That the board of directors hereby authorize the officers of this corporation to offer to exchange the capital stock of said Union Commerce

Corporation for the capital stock of said Keane, Higbie & Co. on the basis of 1 share of the capital stock of Union Commerce Corporation, having a par value of \$20 each, for 1 share of the capital stock of Keane, Higbie & Co., having a par value of \$10 each.

(b) that subject to the necessary increase in the authorized capital stock of this corporation, the officers of this corporation be, and they are hereby, authorized to issue not in excess of 100,000 shares of the capital stock of this corporation of the par value of \$20 each (using for that purpose all of the heretofore authorized capital stock of this corporation, now unissued, together with a sufficient number of shares of its new authorized capital stock when the same has been made available by the increase in the authorized capital stock in this corporation) in exchange on the basis aforesaid for 100,000 shares of the capital stock of said Keane, Higbie & Co., said 100,000 shares being the entire outstanding capital stock of said company, provided that such exchange involves the exchange of at least 75 percent of the entire outstanding capital stock of said Keane, Higbie & Co., and subject to all of the conditions of this resolution, and that a special right be granted to the stockholders of this corporation of record at a date to be fixed by the directors to subscribe to their pro rata part of said 100,000 shares of the stock of this corporation, and provided that subscriptions for fractional shares shall not be accepted and that all subscription rights to any fractional share resulting from the exercise of said subscription rights aforesaid shall be represented by fractional share subscription warrants in form and substance to be adopted by the directors, and that the stockholders of this corporation shall be requested to waive their right to subscribe for any part of said 100,000 shares of the stock of this corporation.

"In the event that any stockholders shall not waive, but shall exercise this special right of subscription, that the officers of this corporation be authorized to offer for sale to such nonwaiving stockholders their original respective pro rata allotment of said 100,000 shares of stock at a price to be determined by the directors, payable at such reasonable time as may be determined upon, and to the extent of the number of shares so subscribed for, the officers of this corporation are authorized to issue additional shares out of the remaining newly authorized stock, equivalent to the number of shares of stock so subscribed for, to the end that 100,000 shares of stock of this corporation shall be available for exchange on the basis aforesaid for the stock of said Keane, Higbie & Co.

"(c) That in no case shall less than 75 percent of the capital stock of said Keane, Higbie & Co. be acquired in exchange for the capital stock of this corporation on the basis aforesaid and that the Union Trust Co. be requested to act as trustee for the purpose of receiving deposits of the capital stock of said Keane, Higbie & Co. and to issue and exchange therefor its negotiable certificates; the deposit agreement and depositary's negotiable certificates being in the form presented at this meeting, which will provide:

"(1) In the event the holders of at least 75 percent of the capital stock of Keane, Higbie & Co. deposit their stock with the Union Trust Co. on or before the 17th day of September 1929, the Union Trust Co. is authorized to receive stock of Union Commerce Corporation from its officers for exchange for stock of said Keane, Higbie & Co. on the basis of 1 share of stock of said Union Commerce Corporation for 1 share of the deposited stock of said Keane, Higbie & Co.

"(2) In the event that less than 75 percent of the capital stock of the said Keane, Higbie & Co. are deposited with the Union Trust Co. on or before the 17th day of September 1929, the stock of said Keane, Higbie & Co. so deposited shall be returned by said Union Trust Co. to the respective depositing stockholders or to the legal holders of the negotiable certificates issued therefor upon the surrender thereof."

Which resolution, upon motion made and seconded, was unanimously adopted.

Do you recall the adoption of that resolution at that meeting of the board, Mr. Higbie?

Mr. HIGBIE. I believe I do, sir.

May I ask how many directors attention that meeting, Mr. Pecora?

Mr. PECORA. According to the minutes of the meeting which I have before me, the following directors were present:

Frank W. Blair, Frederick G. Austin, Harry C. Bulkley, George W. Carter, Harry S. Covington, Aaron DeRoy, George R. Fink, Harry S. Finkenstaedt, Burch Foraker, A. B. C. Hardy, Carlton M. Higbie, Hobart B. Hoyt, James Inglis, Samuel R. Kingston, Charles A. Kinney, George H. Kirchner, Henry Ledyard, Dwight B. Lee, F. L. Lowrie, Edward M. Mancourt, B. H. Manning, Fred T. Moran, Charles S. Mott, W. Howie Mnir, Edwin H. Nelson, Robert Oakman, Jerome H. Remick, Herbert S. Reynolds, John R. Russel, Henry H. Sanger, A. A. Schantz, Oscar W. Smith, B. F. Stephenson, George W. Trendle, C. C. Winningham, and L. A. Young.

There were also present by special invitation, members of the boards of directors of Union Trust Co. and the National Bank of Commerce, as follows:

John A. Bryant, Adolph Finsterwald, Charles F. Lambert, T. W. P. Livingstone, George B. Russel, M. B. Whittlesey, and John N. Stalker, secretary.

This meeting of the board of directors of the Union Commerce Corporation was followed shortly thereafter by a special meeting of the stockholders of the Union Commerce Corporation, was it not?

Mr. HIGBIE. Yes, sir.

Mr. PECORA. At which there was considered the subject matter of this resolution that I have just read?

Mr. HIGBIE. Yes, sir.

Mr. PECORA. That was held on September 12, 1929, was it not?

Mr. HIGBIE. The 10th or 12th.

Mr. PECORA. It was originally held on the 10th and was adjourned for final action to the 12th.

Mr. HIGBIE. Yes.

Mr. PECORA. Did you attend that meeting of the stockholders held on the 12th of September 1929?

Mr. HIGBIE. I do not remember, Mr. Pecora.

Mr. PECORA. Let me read to you, for possibly refreshing your recollection, the following from a photostatic copy which I have of the minutes of the adjourned special meeting of the stockholders of Union Commerce Corporation held on September 12, 1929 [reading]:

The president reported that at a meeting of the board of directors held on August 20, 1929, a proposal was submitted for the acquisition by this corporation of the capital stock, or at least 75 percent thereof, of Keane, Higbie & Co., a Michigan corporation, of Detroit, Mich., from the stockholders of that company in exchange for shares of the capital stock of this corporation upon the basis of one share of the stock of this corporation having a par value of \$20 each for one share of the stock of said Keane, Higbie & Co. having a par value of \$10 each.

The president further reported that the officers of this corporation, after a careful examination of the assets and properties of said Keane, Higbie & Co., its financial statement and an investigation, determined to their satisfaction that the acquisition of the capital stock of said Keane, Higbie & Co. upon the proposed basis of exchange for the stock of this corporation is desirable, and that they recommend the acquisition of the capital stock of said Keane, Higbie & Co. upon said basis.

Whereupon the following resolution was presented:

"Whereas the board of directors of this corporation has heretofore determined to assign and deliver shares of the capital stock of this corporation for and in exchange for all or any part of the outstanding capital stock of Keane, Higbie & Co., a Michigan corporation, but not less than 75 percent of the stock of said Keane, Higbie & Co. by the exchange of one

share of the capital stock of this corporation having a par value of \$20 each for one share of the capital stock of said Keane, Higbie & Company having a par value of \$10 each, that in accordance with and subject to the terms and conditions contained in the resolution of said board duly adopted at its meeting held on the 20th day of August, 1929, a copy of which was duly presented to the stockholders at this meeting, and whereas, after due and careful consideration it was deemed advantageous and to the best interests of this corporation and the stockholders thereof that the acquisition of the capital stock of said Keane, Higbie & Co. as determined upon by a majority of all the directors of this corporation be carried out; now, therefore, be it

Resolved, That said action of the board of directors be and the same is hereby ratified and approved, and that the proper officers of this corporation be and they are hereby authorized and directed to issue not in excess of 100,000 shares of this corporation of a par value of \$20 each, using for that purpose all of the heretofore authorized capital stock of this corporation * * * provided that such exchange involve the exchange of at least 75 percent of the entire outstanding capital stock of said Keane, Higbie & Co. and that such exchange be further subject to all the terms and conditions contained in the resolution of the board of directors adopted on the 20th day of August, 1929, as supplemented by this resolution."

I will not read the portion of the resolution that states the form.

Mr. HIGBIE. I remember the circumstances.

Mr. PECORA (reading) :

Which resolution, upon motion duly made and seconded, was unanimously adopted.

Do you recall that action taken at that special adjourned meeting of the stockholders?

Mr. HIGBIE. Yes, sir; I do.

Mr. PECORA. Now, thereafter the exchange of shares was made upon and under the terms and conditions provided for in this resolution; is that right?

Mr. HIGBIE. That is right.

Mr. PECORA. And as a consequence and as result thereof the Union Commerce Corporation acquired all of the capital stock of Keane, Higbie & Co., consisting of 100,000 shares?

Mr. HIGBIE. Yes.

Mr. PECORA. And issued therefor in exchange 100,000 shares of its own capital stock?

Mr. HIGBIE. That is right.

Mr. PECORA. You at that time were still the owner of 60,500 shares of the capital stock of Keane, Higbie & Co.?

Mr. HIGBIE. That is right.

Mr. PECORA. After the consummation of this transaction did you sell 30,000 shares of the 60,500 shares of the Union Commerce Corporation stock which you received in exchange for your shares of Keane, Higbie & Co. to anybody?

Mr. HIGBIE. I and the other stockholders, a few of us, as you have said, sold 30,000 shares of the stock to Goldman-Sachs at \$120 a share in accordance with an agreement we had with the Union Commerce group to do so.

Mr. PECORA. Have you observed in the resolution which I have read to you, and which was adopted by the board of directors of the Union Commerce Corporation on August 20, 1929, or in the resolution which I have read to you, which was adopted by the stockholders of the Union Commerce Corporation at the meeting held

September 12, 1929, there is absolutely no mention made of such an agreement?

Mr. HIGBIE. I observed that there was not.

Mr. PECORA. Why did you say that there was such an agreement?

Mr. HIGBIE. Because there was.

Mr. PECORA. Where is the evidence of it?

Mr. HIGBIE. Well, the evidence is the word of Mr. Blair, Mr. Covington, Mr. Sanger, Mr. Finkenstaedt, Mr. Catchings, and Mr. Weinburg.

Mr. PECORA. Was that agreement ever put in written form at any time?

Mr. HIGBIE. Not to my knowledge, sir. I did not make the agreement.

Mr. PECORA. What is that?

Mr. HIGBIE. I did not make the agreement to sell the stock, but I agreed with Mr. Blair and his group that we would fulfill our verbal contract.

Mr. PECORA. By Mr. Blair's group, whom do you specifically mean?

Mr. HIGBIE. The Union Commerce.

Mr. PECORA. You mean you made an agreement with Mr. Blair's corporation, that is, the corporation of which he was the executive head, the Union Commerce Corporation?

Mr. HIGBIE. Well, I made the agreement with him, sir.

Mr. PECORA. With whom?

Mr. HIGBIE. Mr. Blair.

Mr. PECORA. Individually?

Mr. HIGBIE. I made it with him individually; for whom I do not know. I assume it was all a part of the total transaction that involved the benefits to the corporation.

Mr. PECORA. The corporation you refer to now is the Union Commerce Corporation?

Mr. HIGBIE. Yes, sir.

Mr. PECORA. When did you reach that understanding or agreement with Mr. Blair?

Mr. HIGBIE. About the 30,000 shares?

Mr. PECORA. Yes.

Mr. HIGBIE. Sometime when we were well into the negotiations for the acquisition of Keane, Higbie & Co.

Mr. PECORA. That was prior to August 20, 1929, was it not?

Mr. HIGBIE. I assume so, sir—yes; no doubt.

Mr. PECORA. How long did the negotiations last?

Mr. HIGBIE. They dragged over 2 or 3 weeks; probably some time, if my memory serves me correctly, it was the latter part of July. The figures would show when they were in Goldman-Sachs' office, and they dragged from that day until we put the deal through.

Mr. PECORA. At any time in the course of those negotiations was any written offer made by Keane, Higbie & Co. or to its stockholders to sell the capital stock of that company to the Union Commerce?

Mr. HIGBIE. I could not tell you.

Mr. PECORA. At any time during those negotiations was any written offer made by the Union Commerce Corporation or anyone

in its behalf to purchase the outstanding capital stock, or at least 75 percent thereof, of Keane, Higbie & Co.?

Mr. HIGBIE. A written offer to us?

Mr. PECORA. The stockholders of Keane, Higbie & Co.

Mr. HIGBIE. I doubt it, sir.

Mr. PECORA. You have no recollection of such an offer?

Mr. HIGBIE. No, sir; I have not.

Mr. PECORA. Have you any recollection of any memorandum of agreement or understanding having ever been made in the course of those negotiations by either party?

Mr. HIGBIE. No. I think it was largely verbal.

Mr. PECORA. It was entirely verbal, was it not?

Mr. HIGBIE. Yes; that is right.

Mr. PECORA. Was it in the course of those negotiations that you reached an understanding or agreement to turn over 30,000 shares of the Union Commerce Corporation stock, as, if, and when you received it, in exchange for your shares of the Keane, Higbie & Co. stock to Goldman, Sacks & Co.?

Mr. HIGBIE. While you were talking, Mr. Pecora, I was thinking of something else, refreshing my memory. If you do not mind, I will go back to this question.

Mr. PECORA. All right.

Mr. HIGBIE. It stands in my mind that sometime between the 1st of July and the 20th of August I dropped Blair a line and told him that I thought I could round up my stockholders to work this thing out.

Mr. PECORA. To work what thing out?

Mr. HIGBIE. The sale of Keane, Higbie & Co. in its entirety to the Union Commerce Corporation. I have thought about it since I knew I was subpoenaed and have searched my files but could find nothing, and I do not know of any record of it.

Mr. PECORA. Now, I will have the reporter read to you the question that I last asked you.

Mr. HIGBIE. Thank you.

(The reporter read the question referred to as follows:)

Mr. PECORA. Was it in the course of those negotiations that you reached an understanding or agreement to turn over 30,000 shares of the Union Commerce Corporation stock as, if, and when you received it in exchange for your shares of the Keane, Higbie & Co. stock to Goldman-Sachs & Co.?

Mr. HIGBIE. Yes; definitely.

Mr. PECORA. Was the price at which you were to turn over those 30,000 shares agreed upon at the same time?

Mr. HIGBIE. Definitely.

Mr. PECORA. That was \$120 a share?

Mr. HIGBIE. Yes, sir.

Mr. PECORA. Did you personally undertake to turn over those 30,000 shares to Goldman-Sachs & Co. for \$120 a share out of your shares of the Union Commerce Corporation stock that you were to receive?

Mr. HIGBIE. I undertook to deliver my group to do such a thing, and if they did not I would have been responsible.

Mr. PECORA. And that was also done entirely on the basis of an oral understanding or agreement?

Mr. HIGBIE. Yes, sir.

Mr. PECORA. Were you informed by Mr. Blair or anybody else in connection with that that Mr. Blair had made a firm agreement with Goldman-Sachs & Co. to sell to Goldman-Sachs & Co. 30,000 shares of the capital stock of the Union Commerce Co.?

Mr. HIGBIE. I was under that impression, sir.

Mr. PECORA. Were you told so by Mr. Blair or anyone else representing the Union Commerce Co.?

Mr. HIGBIE. I would not remember specifically. I assume so, or I certainly would not have gone through with an agreement that was not an agreement.

Mr. PECORA. When did you first become a director of the Union Commerce Investment Co.?

Mr. HIGBIE. I looked it up the other day. I thought it was in December of 1928. As I said this morning, it probably was automatic, whether I wanted to or not. When they put the bank and the trust company together I believe for political reasons they put us all on that board.

Mr. PECORA. Do you recall at any time prior to August 20, 1929, that the board of directors of the Union Commerce Corporation were told by Mr. Blair or by anyone else that a transaction had been agreed upon between the Union Commerce Corporation and Goldman-Sachs & Co., under the terms of which the Union Commerce was to sell 30,000 of its shares to Goldman-Sachs & Co. for \$120 a share?

Mr. HIGBIE. No; but I have a feeling—I recall that he did tell certain of the directors privately that such a thing was going on, because of the fact that he felt it was such a strong thing for the company, and I believe he had been asked to keep the matter a business secret, a proper business secret.

Mr. PECORA. Do you recall any resolution or action ever adopted or taken by the board of directors of the Union Commerce Corporation at any time prior to August 20, 1929, in which the corporation was committed to sell or became committed to sell 30,000 shares of its capital stock to Goldman-Sachs & Co. for \$120 a share, or for any price?

Mr. HIGBIE. I don't know, but I have a feeling that Goldman-Sachs had something in writing from Mr. Blair. I don't know that.

Mr. PECORA. I have not asked you about what Goldman-Sachs & Co. may have had. I have asked you if you, as a director of the Union Commerce Co., know of any action or resolution that was taken or adopted by the board of directors of that company involving or committing that company to sell 30,000 shares of its stock to Goldman-Sachs & Co.?

Mr. HIGBIE. I don't remember, sir; I don't know of any.

Mr. PECORA. You have told us, if I have correctly understood your testimony today, that when you delivered, subsequent to September 12, 1929, to Goldman, Sachs & Co. 30,000 shares of the stock of the Union Commerce Co. which you had received in return for your shares of Keane, Higbie & Co., that you were required to do that as part and parcel of the transaction or agreement under which the Union Commerce Co. purchased, in exchange for its own stock, on a share-for-share basis, 100,000 shares of the capital stock of Keane.

Higbie & Co. Have I correctly understood your testimony to that effect?

Mr. HIGBIE. Do you mean to say that the delivery of the stock to Goldman-Sachs was made a condition of our merging the two companies?

Mr. PECORA. Is that what you have tried to tell us?

Mr. HIGBIE. I will say to you that that was not the primary condition, but it was made a condition of the deal.

Mr. PECORA. It was made a condition?

Mr. HIGBIE. Yes.

Mr. PECORA. And you so understood it to be?

Mr. HIGBIE. Yes.

Mr. PECORA. As a director of the Union Commerce Corporation you had no knowledge that the company had ever committed itself to sell any of its shares to Goldman, Sachs & Co., had you?

Mr. HIGBIE. Well, I think that is going far afield. How would I know?

Mr. PECORA. Is it a fact?

Mr. HIGBIE. As a director and as an individual?

Mr. PECORA. As a director, your approval would be sought to such a transaction, would it not?

Mr. HIGBIE. Mr. Pecora, as an individual I knew it, because they told me so.

Mr. PECORA. Who told you?

Mr. HIGBIE. But they did not tell me in a directors' meeting.

Mr. PECORA. Do you know that no action of any kind, no formal action of any kind, was ever taken by the Union Commerce Corporation?

Mr. HIGBIE. I am convinced that that is the truth.

Mr. PECORA. Committing it to sell 30,000 shares of its stock to Goldman, Sachs & Co.?

Mr. HIGBIE. Yes, sir; I am convinced that that is so.

Mr. PECORA. You know that that is so, don't you?

Mr. HIGBIE. I am sure of it.

Mr. PECORA. You know, from your attendance at the meeting of the board held on August 20, 1929, that nothing at all was said to the directors at that meeting that referred in any way to any arrangement which the Union Commerce Corporation had made to sell Goldman, Sachs & Co. 30,000 shares of its stock, do you not?

Mr. HIGBIE. No; I do not. It might have been said. As you know, in many directors' meetings many things are discussed, and they are not always recorded in the minutes. I do not believe that there was 1 director out of 10 that did not know about the Goldman, Sachs transaction, possibly never officially, or on the record, but it was discussed.

Mr. PECORA. Did you ever discuss it prior to August 20, 1929, with any other director of the Union Commerce Corporation?

Mr. HIGBIE. I do not remember, sir.

Mr. PECORA. Were you present at any such discussion had between other directors of that company prior to August 20, 1929?

Mr. HIGBIE. I do not remember.

The CHAIRMAN. Who paid for these 30,000 shares transferred to Goldman, Sachs?

Mr. HIGBIE. I suppose Goldman, Sachs & Co., sir.

The CHAIRMAN. You suppose so. You don't know? Do you know to whom the payment was made?

Mr. HIGBIE. I do not. I know that we delivered the stock.

The CHAIRMAN. You delivered the stock, and you were to get \$120 a share for your stock. Can you not tell how much was paid for it and to whom?

Mr. HIGBIE. Oh, yes; we got \$120 a share for it.

The CHAIRMAN. Who got it?

Mr. HIGBIE. The stockholders that owned it.

Mr. PECORA. Who were they?

Mr. HIGBIE. I was one, for 18,150 shares, and there were various stockholders. I think you have them on the record there in a list. Keane, Higbie & Co. is now in the Guardian group, and I have no access to the files.

Mr. PECORA. Out of the 30,000 shares you contributed 18,100 shares for the purpose of selling them and delivering them to Goldman, Sachs?

Mr. HIGBIE. Yes. Goldman, Sachs must have paid for the stock ultimately—to answer your question.

Mr. PECORA. From whom did you get payment for those 18,100 shares at the rate of \$120 a share?

Mr. HIGBIE. We delivered our stock, and I think Keane, Higbie & Co. cleared the transaction.

Mr. PECORA. From whom did you get your payment for your 18,100 shares?

Mr. HIGBIE. I think I got it from Keane, Higbie & Co. I do not know how the mechanics of the deal were handled, but I remember they gave me credit for whatever my amount was.

Mr. PECORA. They gave you a credit?

Mr. HIGBIE. Yes, sir. I never got into the bookkeeping end of the business, but I think they delivered the stock to Goldman, Sachs in New York.

Mr. PECORA. How long after September 12, 1929, were those 30,000 shares delivered, sold to Goldman, Sachs & Co.?

Mr. HIGBIE. How long after September 12?

Mr. PECORA. Yes.

Mr. HIGBIE. Were they sold back to the group?

Mr. PECORA. No; were they sold and delivered to Goldman, Sachs & Co.?

Mr. HIGBIE. I do not remember.

Mr. PECORA. Was it shortly afterward?

Mr. HIGBIE. It must have been, because I know we had delivered them just as quickly as possible.

Mr. PECORA. What was the market price in September 1929 of the capital stock of the Union Commerce Co. which you sold?

Mr. HIGBIE. When they got it?

Mr. PECORA. When Goldman, Sachs & Co. got it for \$120 from you and your associates.

Mr. HIGBIE. When they got it for \$120 a share, the stock was selling around \$240 or \$250 a share.

Mr. PECORA. They got it for about half its then market value?

Mr. HIGBIE. That is right.

Mr. PECORA. And you voluntarily parted with 18,100 shares at a price which was half the market value, because Blair had told you informally and orally that he had reached some understanding with Goldman, Sachs & Co.?

Mr. HIGBIE. It was not a casual understanding. It was a very definite one, sir?

Mr. PECORA. It was an understanding that, to your knowledge up to this moment, has never been evidenced by a writing.

Mr. HIGBIE. That is true.

Mr. PECORA. In September of 1929, were you still so careless about millions that the difference of \$120 or \$130 a share for 18,100 shares was of slight consequence to you?

Mr. HIGBIE. Do you mean to say that I would have demanded any man's word in writing before trading? You see, Mr. Pecora, we do all these things—

Mr. PECORA. Let me answer your question as to what I mean to say. I will tell you exactly what I mean to say.

Mr. HIGBIE. Yes, sir.

Mr. PECORA. I mean to say this: That you were a director of the Union Commerce Corporation during the year 1929, and had been such from some time in the year 1928.

Mr. HIGBIE. The beginning of 1929.

Mr. PECORA. That as such director you never got any knowledge of your company, that is, the Union Commerce Co., having committed itself by a firm commitment to sell and deliver 30,000 of its shares of capital stock to Goldman, Sachs & Co. That is what I mean to say. Is my statement at variance with the fact?

Mr. HIGBIE. I think not, Mr. Pecora.

Mr. PECORA. I mean further to say this: Take up one step at a time.

Mr. HIGBIE. Yes.

Mr. PECORA. That in the summer of 1929, during a 2 or 3 weeks' period, which you have said was the period in which the negotiations took place that culminated in the purchase by the Union Commerce Co. of all the outstanding capital stock of Keane, Higbie & Co. on a share-for-share basis of exchange, there never was a writing between you or your company, Keane, Higbie & Co., and the Union Commerce Corporation, with regard to the terms of that sale. Is that at variance with the facts?

Mr. HIGBIE. With regard to the terms of the 30,000 share sale?

Mr. PECORA. Exactly. Is that at variance with the facts?

Mr. HIGBIE. In my memory, there never was a writing in connection with it, and I can recall very distinctly standing in Mr. Blair's office—and I think others were with him—and Mr. Blair said to me that he would have to take my word, which had always been darned good, for the fact that I would deliver to him, regardless of market price, the 30,000 shares of stock at \$120, to fulfill their commitment to Goldman-Sachs & Co. I told him that if I did not do it, it would be the first time I had fallen down on a contract.

Mr. PECORA. Have you any proof to this day of the making of any firm commitment by the Union Commerce Corporation with Goldman, Sachs & Co., to sell to the latter 30,000 shares of its capital stock?

Mr. HIGBIE. All I know is that they told me they sold it, or they would endeavor to get it, but I could not testify to something that happened at a meeting that I did not attend, and I did not even know was being held.

Mr. PECORA. What meeting are you referring to?

Mr. HIGBIE. I mean the meeting that Mr. Catchings and Mr. Weinburg had with Sanger and Blair and Covington.

Mr. PECORA. Can you give this committee today any proof that the Union Commerce Corporation ever entered into a firm contract or agreement to sell 30,000 of its shares to Goldman, Sachs & Co. for \$120 a share?

Mr. HIGBIE. No, sir.

Mr. PECORA. After you and your associates who made up this block of 30,000 shares of stock which was sold and delivered to Goldman, Sachs & Co., for \$120 a share, made that sale, did you repurchase any part of those 30,000 shares?

Mr. HIGBIE. From whom?

Mr. PECORA. From anybody.

Mr. HIGBIE. No. Oh, yes; we did, of course. Pardon me.

Mr. PECORA. When did you do that.

Mr. HIGBIE. There were two entirely separate transactions.

Mr. PECORA. Let us have the first one.

Mr. HIGBIE. I will give you the story, and then you can understand it.

Mr. PECORA. Let us have the story.

Mr. HIGBIE. After this whole thing took place, some time after it all took place, Union Commerce and Guardian started talking merger, and consummated a merger.

Mr. PECORA. When was that merger effected?

Mr. HIGBIE. I think that was in the fall of 1929, because it was out at Mr. Blair's house, and we were out there all one Sunday. In connection with it, the Guardian Detroit Co. did not like the fact that the Union Commerce Corporation had as a large stockholder an individual New York banking house, because of the fact that they dealt with Kuhn-Loeb, and they dealt with Morgan, and they dealt with Hornblower & Weeks, and they dealt with Lee-Higginson and others.

Mr. PECORA. What was the matter with the Guardian Group? Were they trying to boycott those bankers?

Mr. HIGBIE. No; I say that they did not want one big group to own so much stock, because they felt it would alienate the others in giving them syndicate participations, and other things, so in the merger they said, "We don't like to have you tied in with one New York banking house. We think it would be better if you could work it out to repurchase that stock." That did not appeal to me particularly, because I was on the other side of the fence at that point.

Mr. PECORA. What side of the fence do you mean?

Mr. HIGBIE. Union Commerce. Weinburg was a good friend of mine, and so was Mr. Catchings.

Mr. PECORA. Weinburg was a representative of Goldman, Sachs.

Mr. HIGBIE. Yes, sir. But it was made a condition, and it seemed a very sound thing for those two groups to merge, so I went to New York and I saw Sidney.

Mr. PECORA. What was made a condition?

Mr. HIGBIE. It was made a verbal condition of the merger that we would attempt to work out a repurchase of enough of that stock so that it would not be a block that would be considered a major block.

Mr. PECORA. That was made a condition in the negotiations that led eventually to the consolidation of the Guardian Detroit group—

Mr. HIGBIE. A conversational condition.

Mr. PECORA (continuing). With the Union Commerce?

Mr. HIGBIE. Yes, sir.

Mr. PECORA. Is that right?

Mr. HIGBIE. Yes, sir; a conversational condition.

Mr. PECORA. That, again, was a sort of oral understanding or agreement?

Mr. HIGBIE. It was. That is right.

Mr. PECORA. Never reduced to writing in any way, shape, or form?

Mr. HIGBIE. No, never.

Mr. PECORA. Go ahead.

Mr. HIGBIE. I went to New York and saw Sidney. We spent the evening together. He did not seem to like the idea. He thought it would be probably a better thing for him if the two groups were together, don't you know. It would make the stock more valuable. He was somewhat distressed, and I explained to him just the way it was, and told him how sorry I was, and hoped that we could work something out, but if not it would be all right.

Mr. PECORA. What would be all right?

Mr. HIGBIE. To let it stay as it was.

Mr. PECORA. Go ahead.

Mr. HIGBIE. As I was terribly busy in those days, one day I was going about my business and a telephone call came from Mr. Blair to come over to his office, that Covington was on the line from New York. Covington and a man named Bitting were in New York and were endeavoring to work out a transaction whereby they could repurchase part of the Goldman, Sachs holdings at substantially under the market.

Mr. PECORA. What, then, was the market?

Mr. HIGBIE. This is just a shot in the dark, but I would be willing to bet it was about \$230 to \$240.

Mr. PECORA. You win the bet.

Mr. HIGBIE. Is that right? What was it?

Mr. PECORA. About that. I said you win the bet.

Mr. HIGBIE. So the thing was finally arranged. I discussed it with the Guardian Detroit Co., and they said, "Yes; we ought to go ahead and take it, and we can redistribute it around here to people who would like to get it at a favorable price, and we will just take it in." Goldman, Sachs & Co. made the very unfavorable—but what sounded very favorable at the time—arrangement that we need not bother to take it up for 30 days. Meanwhile we went about our business, and because we did not have to take it up that next day we probably did not get around to it, because we were then in the throes of merging the two groups, which was quite a big job. Everybody was busy and it was pretty hard to get anybody down to brass tacks. The result was that when we did get around to it we were

just on the eve of some of these market crashes, and before we got the first 7,000 of it placed the market break occurred in all stocks, and the stock went to a point where we did not care to offer it to anybody. So we held it, and ultimately distributed it to the directors of the companies, stood around in a group and took it up. My partner and I took \$540,000 worth of it at \$184 when it was selling at about \$125.

Mr. PECORA. That is the story, is it?

Mr. HIGBIE. That is the story in substance, Mr. Pecora.

Mr. PECORA. Let us get a few more of the details on the record.

Mr. HIGBIE. Yes, sir.

Mr. PECORA. In connection with the negotiations to consolidate the Guardian Detroit Group with the Union Commerce Co., which you say commenced shortly after the acquisition of the Keane-Higbie stock by the Union Commerce Co.—

Mr. HIGBIE. Yes, sir.

Mr. PECORA (continuing). You were told that the Guardian Detroit Group had expressed an objection to having the banking house or firm of Goldman, Sachs & Co., hold such a large block of the capital stock of the Union Commerce Co., is that right?

Mr. HIGBIE. Yes, sir.

Mr. PECORA. And you then undertook, in order to meet that objection raised by the Guardian Detroit Group, to repurchase from Goldman, Sachs & Co. those 30,000 shares, is that right?

Mr. HIGBIE. That is not just as it was; no.

Mr. PECORA. Then correct it.

Mr. HIGBIE. I went down to New York and sat down with Sidney and talked it over. I was not going to alienate a possibility of a good business connection just because some people thought it was a good idea to be friendly with a lot of other people. I liked Sidney, and I liked their business, so I thought if I could work the whole thing out and have Sidney satisfied—

Mr. PECORA. Sidney is Mr. Weinburg?

Mr. HIGBIE. Yes.

Mr. PECORA. Suppose we refer to him as Mr. Weinburg.

Mr. HIGBIE. Yes, sir. I understand. Pardon me. I think a gentleman who was president of another corporation that they control, and which did a lot of business out in Detroit, took us out that night for dinner on his yacht. The three of us sat around and chatted, and he left Sidney and me alone, and we talked the thing over.

Mr. PECORA. At whose suggestion did you go to New York to see your friend Sidney and talk to him about it?

Mr. HIGBIE. It was the outgrowth of the meeting of about 18 or 20 men—I don't remember how many there were—that met at Mr. Blair's house, when we discussed various phases—this is only one small one—of the merger of the two groups.

Mr. PECORA. As a result of what was said at that meeting at Mr. Blair's house, you came to New York?

Mr. HIGBIE. Yes, sir.

Mr. PECORA. To see Weinburg?

Mr. HIGBIE. Yes, sir.

Mr. PECORA. And find out if you could induce Goldman, Sachs & Co., through the friendly offices of Weinburg, to sell back to the group in Detroit the 30,000 shares; is that right?

Mr. HIGBIE. I did not want him to sell all of them. I wanted him to keep enough so that he would still be friendly with us, but not have so much that it would be objectionable to any other phases of our relationships with New York banking houses.

Mr. PECORA. As a result of that visit to New York and your conversations on the yacht and elsewhere with Weinburg, did you return to Detroit with any assurance that you had met with any success?

Mr. HIGBIE. I did not; not by any means.

Mr. PECORA. Had you been repulsed in your suggestion that Goldman, Sachs & Co. sell back the major part of those 30,000 shares?

Mr. HIGBIE. Yes.

Mr. PECORA. But you were not deterred by the repulse? You went at it again?

Mr. HIGBIE. No; I did not.

Mr. PECORA. What happened after that?

Mr. HIGBIE. I think I covered it earlier in the testimony. One day a telephone call came from New York, and I was called over to Mr. Blair's office—that Mr. Bitting and Mr. Covington were on the telephone.

Mr. PECORA. In New York?

Mr. HIGBIE. Yes, sir; and they had succeeded in working out a very favorable deal for the Guardian.

Mr. PECORA. For the Guardian Detroit Group?

Mr. HIGBIE. For the crowd as a whole.

Mr. PECORA. You had not yet merged or consolidated?

Mr. HIGBIE. We were in sort of a state of flux.

Mr. PECORA. You were in the throes of it?

Mr. HIGBIE. We were in the throes of it, and it was hard to tell who was in authority, and so forth.

Mr. PECORA. Did you learn then, as a result of that long-distance telephone conversation, that Goldman, Sachs & Co. had—

Mr. HIGBIE. Consented.

Mr. PECORA. Had consented to part with some of their shares, a large portion of them?

Mr. HIGBIE. Yes, sir. They were to retain 5,000 shares as a friendly gesture, and sell us the balance at, say, something approximating \$180, when the stock was around \$240 or \$230.

Mr. PECORA. To whom was it proposed that Goldman, Sachs & Co. would sell those 25,000 shares at \$184?

Mr. HIGBIE. It was proposed that they sell them to the investment units of the group, and I think, as a matter of fact, when the letter came through from Goldman-Sachs, Sidney Weinburg addressed the letter to me, much to my surprise.

Mr. PECORA. To you individually?

Mr. HIGBIE. I think he did.

Mr. PECORA. Have you that letter?

Mr. HIGBIE. I have not, because it was not my property. I was only a name—a proxy, so to speak.

Mr. PECORA. Then, thereafter, was any written agreement entered into providing for the sale by Goldman, Sachs & Co. to anyone else, of 25,000 of these 30,000 shares for \$184 a share?

Mr. HIGBIE. Will you read that, please?

(The reporter read the pending question.)

Mr. HIGBIE. No. The stock was ultimately shipped out to the Guardian Detroit Co. and paid for.

Mr. PECORA. No agreement in writing of any kind with regard to the terms of the sale was ever entered into so far as you know?

Mr. HIGBIE. I think he gave us 30 days to pay for it.

Mr. PECORA. Who undertook to buy it at \$184 a share from Goldman, Sachs & Co.?

Mr. HIGBIE. The investment units of the two groups.

Mr. PECORA. What were the names?

Mr. HIGBIE. Guardian Detroit Co. and Keane, Higbie & Co.

Mr. PECORA. You were a director of both those units, were you not?

Mr. HIGBIE. Yes, sir.

Mr. PECORA. Was the matter ever formally presented to the board of either of those groups, that is, the matter of those units buying from Goldman, Sachs & Co. these 25,000 shares for \$184 a share?

Mr. HIGBIE. No; it was not.

Mr. PECORA. Was that ever made the subject of any corporate action by the board of either one of those companies?

Mr. HIGBIE. No, Mr. Pecora.

Mr. PECORA. Do you know why not?

Mr. HIGBIE. Yes.

Mr. PECORA. What is the reason?

Mr. HIGBIE. The reason is that we operated the business in the investment units rather as we always had, that is, independently of holding meetings, because many times transactions could not be done, or were cold before we could call a board meeting.

Mr. PECORA. This was not that kind of a transaction, was it?

Mr. HIGBIE. This was a transaction that had been pretty well discussed, and it was the will of the Group that they reacquire these shares when they had an opportunity to do it. The Guardian Detroit Co. told me that that was the thing to do, and that we should buy the stock, and we did.

Mr. PECORA. Was that will of the Group to which you have just referred ever expressed in any definite form, through the medium of a corporate resolution, motion, or anything of that sort?

Mr. HIGBIE. I think not, sir.

Mr. PECORA. Who actually bought those 25,000 shares back from Goldsman, Sachs & Co. at \$184 a share when the transaction was consummated?

Mr. HIGBIE. How do you mean?

Mr. PECORA. Who actually bought the stock, received it, and paid for it?

Mr. HIGBIE. Who made the deal?

Mr. PECORA. Who bought it? Who bought these 25,000 shares?

Mr. HIGBIE. Who paid for it, you mean?

Mr. PECORA. And paid for it; yes.

Mr. HIGBIE. The Guardian Detroit Co.

Mr. PECORA. And gave its corporate check?

Mr. HIGBIE. I assume so. I think they arranged a credit at the National City Bank and paid for it.

Mr. PECORA. Was the matter of the acquisition of that block of stock ever made the subject of any corporate action by that company?

Mr. HIGBIE. I would assume so.

Mr. PECORA. Do you know?

Mr. HIGBIE. I do not know.

Mr. PECORA. What afterwards happened with regard to that transaction that operated to relieve the Guardian Detroit Co.—

Mr. HIGBIE. Of the stock?

Mr. PECORA. Yes.

Mr. HIGBIE. Well, we formed a selling syndicate.

Mr. PECORA. What is that?

Mr. HIGBIE. We formed a selling syndicate.

Mr. PECORA. Who formed it?

Mr. HIGBIE. The Guardian Detroit Co.

Mr. PECORA. Who composed that so-called "selling syndicate"?

Mr. HIGBIE. Well, it was the Guardian Detroit, Co., Keane, Higbie & Co., and Clarence Bitting, who, we all assumed, was Fisher & Co., because at that time he was the dominant head of the company. We had one other participant who participated with us, because of the fact that he had negotiated the deal and felt he was entitled to a part of it.

Senator COUZENS. Who was that?

Mr. HIGBIE. Mr. Covington.

Mr. PECORA. Do you know when those 25,000 shares were repurchased at \$184 a share from Goldman, Sachs & Co.?

Mr. HIGBIE. No, sir; I do not.

Senator COUZENS. What profit did you report to the Internal Revenue Bureau—

Mr. HIGBIE. On this transaction?

Senator COUZENS. No; wait until I finish my question. What profit did you report to the Bureau of Internal Revenue when you sold those 30,000 shares to Goldman, Sachs & Co. for \$120?

Mr. HIGBIE. I can tell you if you want to know.

Senator COUZENS. I would like to know.

Mr. HIGBIE (examining papers). I will get it in just a second, Senator. May I go and get some figures I have back here in the back of the room?

Senator COUZENS. Yes.

Mr. HIGBIE (after examining papers). \$2,081,000.

Senator COUZENS. That was the profit you reported to the Bureau of Internal Revenue?

Mr. HIGBIE. Yes. That is the result of Keane, Higbie & Co. from the first day I came to Detroit, practically.

Senator COUZENS. That was the difference, then, between what you figured to be the value of your stock, at about \$64, and \$120; is that right?

Mr. HIGBIE. That was the difference between the cost of the stock, ultimately growing out of the time I started the company, and the accumulations, so I reported the whole works.

Mr. PECORA. Mr. Higbie, you had not succeeded in your undertaking to induce Goldman, Sachs & Co. to sell back 25,000 of these 30,000 shares, had you?

Mr. HIGBIE. No, sir.

Mr. PECORA. So, thereafter, apparently the undertaking was assumed by somebody else in behalf of the Detroit Group?

Mr. HIGBIE. Yes, sir.

Mr. PECORA. And that somebody else included Covington, so far as you know?

Mr. HIGBIE. Yes.

Mr. PECORA. Now, as a result—

Mr. HIGBIE. Bitting always seemed to know—

Mr. PECORA. Who?

Mr. HIGBIE. I am assuming.

Mr. PECORA. As a result of those efforts undertaken by Mr. Covington and others, Goldman, Sachs & Co., eventually agreed to sell back 25,000 of those 30,000 shares at a price of \$184 a share?

Mr. HIGBIE. Yes, sir.

Mr. PECORA. Which was then around \$50 below the market, is that right?

Mr. HIGBIE. Yes, sir.

Mr. PECORA. Covington was the genius that brought that about?

Mr. HIGBIE. Yes; he did it.

Mr. PECORA. In other words, Covington persuaded Goldman, Sachs & Co. to sell these 25,000 shares at an aggregate price of about \$1,250,000 below the market price?

Mr. HIGBIE. At that time, yes, sir.

Mr. PECORA. At that time. Now, you said something about a syndicate in connection with the repurchase of these 25,000 shares from Goldman, Sachs & Co. When was that syndicate formed?

Mr. HIGBIE. Just shortly after we arranged to buy them.

Mr. PECORA. Shortly after—

Mr. HIGBIE. Our idea was redistribution of the shares. We did not intend to purchase it for stock. We intended to redistribute it.

Senator COUZENS. When you say "we" whom do you mean—these four that composed the syndicate?

Mr. HIGBIE. Yes, sir. It was not the four; no, sir. It was the investment companies, and whatever Fisher & Co. could contribute, or Bitting, as we never knew exactly his relationship. We thought he was heading Fisher & Co.

Senator COUZENS. And Covington.

Mr. HIGBIE. Covington simply participated because he had done very good work in something that was outside of his bank duties.

Senator COUZENS. What was the extent of his participation?

Mr. HIGBIE. He had a participation in the profit, if any resulted, from the sale of the securities at a profit to the syndicate.

Senator COUZENS. What was his percentage of profit in the syndicate?

Mr. HIGBIE. 10 percent.

Senator COUZENS. He was to receive 10 percent?

Mr. HIGBIE. He was not to receive 10 percent, sir. That is the way it worked out. He received \$25,000 out of \$250,000.

Senator COUZENS. What I am wondering is how this syndicate got possession of these shares that were sold by Goldman, Sachs & Co. You testified a while ago that they were sold to the corporation.

Mr. PECORA. To the two investment units of the group.

Senator COUZENS. Yes.

Mr. PECORA. Namely, Keane, Higbie & Co. and the Guardian Detroit Co.

Mr. HIGBIE. When the syndicate got possession of the shares at \$184, or whatever the exact price was, they naturally did not want to hold them.

Mr. PECORA. Who composed that syndicate, Mr. Higbie, that got possession of those shares?

Mr. HIGBIE. The syndicate was the Guardian Detroit Co. and Keane, Higbie & Co.

Mr. PECORA. Was there any written agreement with respect to the formation of that syndicate?

Mr. HIGBIE. The only thing was that, as you probably know from data you have, when Keane, Higbie & Co. was taken into the group it was proposed to be a wholly owned subsidiary of the Guardian Detroit Co.; and whatever we did, we did jointly. Therefore, if the Guardian Detroit Co. had bought a block of stock, it was assumed that we were in for part of it.

Mr. PECORA. I ask again, was any written agreement ever made with regard to the formation of this purchasing syndicate?

Mr. HIGBIE. The purchasing or the selling syndicate?

Mr. PECORA. The selling syndicate. Do you call it a selling syndicate?

Mr. HIGBIE. I call the syndicate that you are asking me about the profit in, a selling syndicate; yes, sir.

Mr. PECORA. Who composed that selling syndicate, again?

Mr. HIGBIE. This goes away back, but I will try. I think, if I recall, it was Keane, Higbie & Co. and the Guardian Detroit Co., for 125,000, and—

Mr. PECORA (interposing). \$125,000?

Mr. HIGBIE. Yes; if any; of the profit if any resulted; and Mr. Bitting for a hundred—I couldn't say. I have no right to testify to something I cannot recall.

Mr. PECORA. Is this the syndicate that repurchased those 25,000 shares from Goldman, Sachs & Co. for \$184 a share?

Mr. HIGBIE. This is not the syndicate that repurchased the shares. This is an entirely different group, a step-up group that disposed of the—that was attempting to dispose of the shares.

Mr. PECORA. Who purchased the 25,000 shares of Goldman, Sachs & Co. at \$184?

Mr. HIGBIE. The Guardian Detroit Co.

Mr. PECORA. Itself as a company?

Mr. HIGBIE. As a company.

Mr. PECORA. Paid for it?

Mr. HIGBIE. Yes, sir.

Mr. PECORA. Purchase price was around \$4,600,000?

Mr. HIGBIE. That is right.

Mr. PECORA. Did that company thereafter agree to sell those shares to a syndicate which was formed to distribute them?

Mr. HIGBIE. Yes, sir; we agreed—not to sell them—we agreed to give them the right to dispose of the stock for us. We formed a second selling syndicate, which had no commitment.

Mr. PECORA. The 25,000 shares were delivered to the Guardian Detroit Co., were they?

Mr. HIGBIE. Right.

Mr. PECORA. Which paid for them at \$184 a share?

Mr. HIGBIE. Right.

Mr. PECORA. To Goldman, Sachs & Co.?

Mr. HIGBIE. Yes.

Mr. PECORA. Then what did the Guardian Detroit Co. do with those 25,000 shares, or what did it agree to do with those 25,000 shares, or any portion of them?

Mr. HIGBIE. They formed a selling syndicate without commitment.

Mr. PECORA. What do you mean by a "selling syndicate without commitment?"

Mr. HIGBIE. I mean a group that is formed, the customary group that is formed, to sell securities.

Mr. PECORA. And who composed that group or syndicate?

Mr. HIGBIE. The Guardian Detroit Co., Keane, Higbie & Co., Clarence Bitting, and Mr. Covington. Mr. Covington had no part in the distribution of the shares that I can recall. It was not his intention to try to sell any of the shares. I think he simply participated in the profit because he had done a good job.

Mr. PECORA. According to my information, the sale of the 25,000 shares for \$184 a share was made by Goldman, Sachs & Co. on October 19, 1929. Does that accord with your recollection?

Mr. HIGBIE. I could not recall, sir.

Mr. PECORA. Assuming that that is the correct date, how soon after that sale by Goldman, Sachs & Co. to the Guardian Detroit Co. did the Guardian Detroit Co. organize this selling syndicate?

Mr. HIGBIE. It was organized shortly after the negotiations.

Mr. PECORA. Yes.

Mr. HIGBIE. Shortly after the negotiations in New York were consummated.

Mr. PECORA. Yes.

Mr. HIGBIE. The difficult thing, Mr. Pecora, is oftentimes we did things verbally. They were not consummated until they were paid for, and if you look up records and photostat them you see what is photostated and don't know what has come before unless I tell you.

Mr. PECORA. Do you remember when the first big market crash came in October 1929?

Mr. HIGBIE. I don't recall the date. I certainly recall the instance.

Mr. PECORA. I should think that would be such a red letter, or black letter, date on your calendar you would remember it.

Mr. HIGBIE. No; I ain not that kind of a fellow, Mr. Pecora.

Mr. PECORA. It was after October 19 and before October 31, 1929, wasn't it?

Mr. HIGBIE. Yes, sir.

Mr. PECORA. Do you recall whether or not this selling syndicate was formed by the Guardian Detroit Co. after that market break in the latter part of October 1929?

Mr. HIGBIE. I recall this phase of it, which may throw some light on it.

Mr. PECORA. Yes.

Mr. HIGBIE. The deal was done by those two gentlemen—

Mr. PECORA. Meaning whom?

Mr. HIGBIE. Meaning Bitting and Covington. They call Blair. Blair calls me. I go to the telephone, and he makes this deal. Tells

me the deal as it was going to be. I ask my friends, my people, and they say, "Why, sure; let's go ahead. It is so much under the market it is very attractive."

All right. Now, then, in part of the negotiations that they did they got an agreement that the stock did not have to be shipped out for 30 days, and it was close to the end of that 30 days that I think the market crash occurred.

Mr. PECORA. Yes. What happened to the selling syndicate's efforts to distribute it?

Mr. HIGBIE. We disposed of, as I recall, 7,000 shares privately.

Mr. PECORA. That left you with 18,000?

Mr. HIGBIE. That left us with eighteen thousand and odd shares.

Mr. PECORA. What happened to those 18,000 shares?

Mr. HIGBIE. After we had two or three crashes and the market went down to, I think, 125 or thereabouts—it was very bad—a meeting was called at Dr. Fred T. Murphy's house, at which we were told of the very large block of Guardian stock that we had in the portfolio of the Guardian Detroit Co. that came from this and other acquisitions—bank acquisitions and what not—and Mr. Lord stated that he thought that something should be done about the directors lifting out some of this stock, and it was discussed as to what price we would lift it out at.

Mr. Lord thought this particular thing should be lifted out at cost or approximately cost, and we sat around the table, discussed the matter, and all agreed that we would do the best we could, look over the exchequer. The next morning I think Mr. Lord had gotten subscriptions from a number of us totaling over 18,000 shares of stock at 180, when it was selling at about 120. I know they got mine. And he went in himself for a large block, too.

Mr. PECORA. If this selling syndicate had succeeded in distributing those 25,000 shares or any portion thereof at a profit, who was to take that profit?

Mr. HIGBIE. The profit was to be taken by the syndicate as I described, the four people, the major portion of which went to the Guardian Detroit, Keane-Higbie, and Bitting was in for a fair amount, because he had good distribution among some of his friends that were not particular friends of ours.

Mr. PECORA. And if that syndicate did not succeed in disposing of those shares at a profit what was to be done with the shares; what was the syndicate to do with the shares?

Mr. HIGBIE. The syndicate was to own them. It was not a committing syndicate at any point.

Mr. PECORA. It was what you called before a—

Mr. HIGBIE. A selling group.

Mr. PECORA. A syndicate without any commitment?

Mr. HIGBIE. Yes, sir; or better known in terms of investment banking as a selling group. That is exactly what you would term it.

Mr. PECORA. Now, I have before me, Mr. Higbie, what purports to be a photostatic copy of the minutes of the meeting of the executive committee of the Guardian Detroit Co. held in November 6, 1929.

Mr. HIGBIE. Yes, sir.

Mr. PECORA. Which I will read to you.

Senator COUZENS. Who were present?

Mr. PECORA. Present Messrs. John C. Grier, Jr., president, Henry E. Bodman, Ernest Kanzler, Carlton M. Higbie, Robert O. Lord, Phelps Newberry, Sherwin A. Hill, Hiram H. Walker. [Reading:]

Reports of the business transactions of the company were presented for the period October 26 to October 31, inclusive. After consideration by the committee, the commitments, tenders, and purchases for the period, October 26 to October 31, inclusive, were approved, and the reports ordered placed on file.

Upon motion duly made, supported, and carried, the following resolution was unanimously adopted:

Resolved, That the action of the officers of this company in participating jointly with Keane, Higbie & Co. in the purchase of 17,500 shares of Union Commerce Corporation stock at a price of \$184 per share be approved.

There being no further business to come before the meeting, the same, upon motion, adjourned.

And that is signed by Mr. Higbie. Robert C. Lehman, probably.

Mr. PECORA. Robert C. Lehman, yes; secretary of the meeting.

Now, what was the action referred to in this resolution and which is referred to as the action of the "officers of this company in participating jointly with Keane, Higbie & Co. in the purchase of 17,500 shares Union Commerce Corporation stock at \$184"?

Mr. HIGBIE. Well, I assume that they had sold such stock as they could sell when the market was good, and after the market had shown signs of weakness generally they did not feel justified in going ahead with their program, and probably just took it into the portfolio and eliminated any arrangement that they might have had with anyone regarding the selling syndicate.

Mr. PECORA. Mr. Higbie, do you observe that this resolution is one which in effect ratifies some action taken by the officers of the Guardian Detroit Co. sometime prior to November 6, 1929?

Mr. HIGBIE. Yes; I do.

Mr. PECORA. And do you observe that according to the terms of this resolution that action had to do with the purchase, in participating with Keane, Higbie & Co., of 17,500 shares of Union Commerce Corporation stock at a price of \$184 per share?

Mr. HIGBIE. Of Keane, Higbie & Co.?

Mr. PECORA. What is that?

Mr. HIGBIE. You say of Keane, Higbie & Co. You mean the Guardian Detroit Co. We were only a small end of that picture.

Mr. PECORA. Now, I will read the resolution to you again [reading:]

Resolved, That the action of the officers of this company in participating jointly with Keane, Higbie & Co. in the purchase of 17,500 shares of Union Commerce Corporation stock at a price of \$184 per share be approved.

Mr. HIGBIE. Yes, sir.

Mr. PECORA. You were present at this meeting of the executive committee of the board of the Guardian Detroit Co. when this resolution was unanimously adopted, so apparently you voted for it?

Mr. HIGBIE. Yes, sir; I did.

Mr. PECORA. Was there ever any transaction which in terms involved the purchase by the Guardian Detroit Co. jointly with Keane, Higbie & Co. of 17,500 shares of the stock of Union Commerce Corporation at \$184 a share?

Mr. HIGBIE. Was there anything prior to that?

Mr. PECORA. Was there prior to November 6, 1929, any such transaction?

Mr. HIGBIE. Yes; we must have if we purchased the whole thing. We purchased the 25,000 shares.

Senator COUZENS. When you say "we" whom do you mean by "we"?

Mr. HIGBIE. Well, the investment units of the group, Senator Couzens.

Senator COUZENS. But there is no reference to 25,000 shares there. It looks to me as if, after you failed to sell the 25,000 shares, you dumped all that on the Guardian Detroit Co.

Mr. PECORA. You dumped the remaining 17,500 shares on the Guardian Detroit Co.

Mr. HIGBIE. You mean after we failed to sell them?

Mr. PECORA. Yes.

Mr. HIGBIE. Who do you think did that?

Mr. PECORA. Who did? You tell me.

Mr. HIGBIE. Well, it was all done as a company transaction.

Mr. PECORA. I see, but it was done that way, wasn't it?

Mr. HIGBIE. Yes, sir; it was done that way.

Mr. PECORA. The first corporate resolution that you know of adopted by the board of the Guardian Detroit Co. with reference to the purchase by that company from Goldman-Sachs of any shares of the Union Commerce Corporation was this one that was adopted on November 6, 1929; isn't that so?

Mr. HIGBIE. Possibly it is. We had very broad and very full powers in that line of business, because of necessity.

Mr. PECORA. By November 6, 1929, the market had broken to \$125 a share or thereabouts?

Mr. HIGBIE. Well, I imagine so. I suspect it was pretty low. Our business, Mr. Pecora, was not done in a corporate way that other lines of business are.

Mr. PECORA. I have before me what purports to be a photostatic copy of the minutes of a special meeting of the board of directors of the Guardian Detroit Co. held on November 20, 1929, at which were present the following: John C. Grier, Jr., president; Henry E. Bodman; Carlton M. Higbie; Robert O. Lord; Alvin McCauley; Phelps Newberry; Hiram H. Walker; and Charles Wright, Jr. I will read the minutes in full of that meeting. After reciting those appearances it proceeds as follows [reading]:

The minutes of the special meeting of the board of directors held October 22 were read and approved. The minutes of the meetings of the executive committee held October 30, November 6, November 12, and November 19 were approved.

The secretary presented to the meeting the original waivers of notice of said meeting signed by all of the directors of the company.

Upon motion duly made, seconded, and unanimously carried, the waivers of notice of said meeting were made a part of the records of the company and of this meeting, and the secretary was directed to file the same with the minutes of this meeting.

At the request of the president Mr. Bodman stated that the purpose of the meeting was to discuss and pass upon the advisability of Guardian Detroit Co. selling to certain directors of Guardian Detroit Co., Guardian Detroit Bank, Guardian Trust Co., and Guardian Detroit Group, Inc., all or any part of 20,500 shares of Union Commerce Corporation depositary's receipts at \$180 per share.

It was stated further that Guardian Detroit Co. had acquired these shares incident to transactions involved in the merger plans of Guardian Detroit Group, Inc., with Union Commerce Corporation, and that such acquisition was

in the interest of said merger plans, and in view of the circumstances it was deemed advisable to present the matter to the board of directors.

Ppon motion duly made and seconded, the following resolution was unanimously adopted:

Resolved, That the officers of the company be, and they are hereby, authorized to negotiate and effect the sale of all or any part of 20,500 shares of Union Commerce Corporation depositary's receipts at \$180 per share to directors of the various units of Guardian Detroit Group, Inc.

The president presented to the board a complete schedule of all securities owned by Guardian Detroit Co. or in which it had any liability or any interest as of the close of business on November 19, 1929, together with the individual costs or liabilities of each of said securities.

The president presented to the board a condensed balance sheet setting forth the assets and liabilities of the company as of November 13, 1929, and after giving effect to the writing, binding the securities of the company, the cost of marketing was discussed.

There being no further business to come before the meeting, the same upon motion adjourned.

Signed by Mr. Lehman, secretary of the meeting.

Do you recall that meeting, now that I have read the minutes of it?

Mr. HIGBIE. I do not, but I probably was there.

Mr. PECORA. Well, according to the minutes you were there.

Mr. HIGBIE. Yes.

Mr. PECORA. Do you remember the adoption of that resolution that I have read to you?

Mr. HIGBIE. No, sir; I do not.

Mr. PECORA. Do you know anything about the circumstances that led to the adoption of this resolution?

Mr. HIGBIE. Yes. That resolution would be just in accordance with just what I have told you, that in conjunction with the various plans of the group and the merger and the various things that arose and the various problems that we dealt with, the acquisition of this Goldman-Sachs stock was considered one of the things that they wanted to accomplish, and that is very logical, that it would be considered as such. Is it not so, sir?

Mr. PECORA. Well now, the resolution does not say anything about that, does it?

Mr. HIGBIE. No, it does not. No, sir, it does not.

Mr. PECORA. What do you know about the circumstances that led to the adoption of this resolution? Let me remind you that the resolution directs and authorizes the officers of the Guardian Detroit Co. to negotiate and effect the sale of all or any part of 20,500 shares of Union Commerce Corporation stock at \$180 per share to directors of the various units of the Guardian Detroit Group, Inc.

Mr. HIGBIE. Well, you see, Mr. Pecora, if we had sold about 7,500 shares, as I recall we did in that syndicate, and we had bought a total of about 25,000 shares, the logical conclusion would be that there would be around 17,500 shares left and as long as the group had other shares that they had acquired in connection with the Grand Rapids Bank and other banks that they had acquired, where they had taken some stock as well as exchanged stock and paid for it, why, that is why this thing was identified in our minds as this particular earmarked stock. We did not identify it in the minutes.

Mr. PECORA. But you haven't any doubt but that—

Mr. HIGBIE. I have no doubt that that is exactly what it is.

Mr. PECORA. No; I was not going to ask you that. You haven't any doubt that in this block of 20,500 shares referred to in this reso-

lution were included the 17,500 shares referred to in the resolution which I read to you that was adopted by the executive committee of the Guardian Detroit Co., on November 6, 1929?

Mr. HIGBIE. I haven't any doubt but what it was, no, sir.

Mr. PECORA. Did the Guardian Detroit Co. succeed in effecting the sale of all or any part of those 20,500 shares at \$180 a share to directors units of the Guardian Detroit Group, Inc.?

Mr. HIGBIE. We sold I think around 7,500, as my memory tells me.

Mr. PECORA. You sold those prior to November 20, 1929, didn't you? In fact, you sold them prior to November 6, 1929?

Mr. HIGBIE. Oh, pardon me. You mean were we able to sell any of these 17,500 shares?

Mr. PECORA. No; any of the 25,500 referred to in this resolution adopted by the board of directors of the Guardian Detroit Co., on November 20, 1929.

Mr. HIGBIE. Well, I know that the directors bought around 18,500 or 18,400 shares of stock.

Senator COUZENS. About on that date?

Mr. HIGBIE. Some time along in the fall, Senator Couzens. I cannot recall exactly.

Mr. PECORA. At \$180?

Mr. HIGBIE. 180, yes.

Mr. PECORA. What was the market price of the stock then?

Mr. HIGBIE. My guess would be that it was a hundred and a quarter.

Mr. PECORA. Were you one of the directors that bought any part of it at 180?

Mr. HIGBIE. I bought \$270,000 in one check.

Mr. PECORA. Now, Mr. Higbie, you heard the testimony of Mr. Covington before this committee this morning, didn't you?

Mr. HIGBIE. Yes, I did.

Mr. PECORA. Did you hear the testimony he gave with regard to some understanding he had with you that he was to get from you \$25,000 as reward, compensation, call it what you will, for his services in connection with the negotiations with Goldman, Sachs & Co. that led to the sale by that company of the 25,000 shares we have spoken of this afternoon?

Mr. HIGBIE. Yes, sir; I did.

Mr. PECORA. Did you make such an agreement with Mr. Covington?

Mr. HIGBIE. I would not say that I did, but I would say that we did; yes.

Mr. PECORA. Who made that agreement?

Mr. HIGBIE. The Guardian Detroit Co. and I.

Mr. PECORA. And you?

Mr. HIGBIE. Yes, sir.

Mr. PECORA. Was it made orally or in writing?

Mr. HIGBIE. Orally.

Mr. PECORA. Why was the agreement made?

Mr. HIGBIE. Well, he had done a good job in lining up Sidney. He knew Sidney Weinburg very well.

Mr. PECORA. Did he know him any better than you?

Mr. HIGBIE. I think so. I don't know. Time will tell. I don't know.

Mr. PECORA. Well now, what was the reason for this agreement to give him \$25,000?

Mr. HIGBIE. Well, it was this: Clarence Bitting was a large buyer of stocks and securities for Fisher & Co.; had a great deal of influence in Wall Street. He even had an office down there for Fisher & Co. I suppose that Goldman-Sachs did a great many things with them. Bitting and Covington were very good friends. Covington had the Boulevard office and Bitting was right across the street with his main office in Detroit in the Fisher Building. And Mr. Covington got a lot of good friends from Mr. Bitting and established a relationship with the Fisher group for our bank that we had had previously. The result was that it was very natural that they would build up a warm friendship, and it is in that connection that, through Bitting's relationship I assume with Goldman-Sachs, Covington came into the picture.

Now, when it came down to the fact of my going down to see Mr. Weinburg, he did not take it very kindly, but everything was very smooth. I explained to him that it was not the intent in any way not to want to develop a relationship with Goldman-Sachs, because I personally had felt that they were a fine firm and had great admiration for them, and still do. But I just was not the one to handle it, that was all. So I just gave it up and I did not make an attempt to buy the stock, to be perfectly frank with you, and all of a sudden Mr. Bitting and Mr. Covington developed this deal. Now it is just as simple as that.

Mr. PECORA. It was felt that Mr. Covington had rendered a service that was worth at least \$25,000 to somebody?

Mr. HIGBIE. He felt that way.

Mr. PECORA. Apparently you felt that way, too, didn't you?

Mr. HIGBIE. Well, I consented.

Mr. PECORA. And your associates in that transaction also consented?

Mr. HIGBIE. Yes.

Mr. PECORA. To pay Covington \$25,000?

Mr. HIGBIE. Yes, the Guardian Detroit Co.

Mr. PECORA. When was it paid to him?

Mr. HIGBIE. Sir?

Mr. PECORA. When was it paid to him?

Mr. HIGBIE. Well, we did not make any profits and we did not pay it. He was to get \$25,000 out of the profits that we were to make on the syndicate, and we did not make any profits.

Mr. PECORA. From the resale of those 25,000 shares; he was to get \$25,000 out of any profits from the resale of it?

Mr. HIGBIE. Yes, that is right.

Mr. PECORA. Well, now, hadn't he rendered a great service to the investment units in that group in inducing Goldman, Sachs & Co. to sell these 25,000 shares at a price of approximately a million and a quarter dollars below the market?

Mr. HIGBIE. He would have if we had been able to sell them at a profit.

Mr. PECORA. I know, but the fact that you were able to buy them for a million and a quarter dollars under the market was a very distinct advantage?

Mr. HIGBIE. Very good deal; yes, sir.

Mr. PECORA. It was not proposed to compensate him for that, was it?

Mr. HIGBIE. It was not.

Mr. PECORA. He was only to be compensated if the syndicate—

Mr. HIGBIE. Profited.

Mr. PECORA. Profited from a resale of these 25,000 shares after they had been sold by Goldman, Sachs & Co.?

Mr. HIGBIE. That is right.

Mr. PECORA. Was that the definite understanding, that he was to get \$25,000 only in the event of a profit accruing to the syndicate?

Mr. HIGBIE. That was the understanding of those that were in the account. I would not be surprised that he had another understanding.

Mr. PECORA. You just made a remark that is rather interesting.

Mr. HIGBIE. Well, I mean, being an investment banker and knowing my business, I probably might construe things differently than he would.

Mr. PECORA. He said that you promised to give him \$25,000. You heard him testify to that today, didn't you?

Mr. HIGBIE. I think that is what he said. It sounded like that.

Mr. PECORA. Well, is the statement in accordance with what you recall to be the facts?

Mr. HIGBIE. No, sir; it is not. I promised to give him—we promised, the syndicate promised to give him—\$25,000 out of the profits that resulted from the profitable sale and disposition of those shares.

Mr. PECORA. Did any profits accrue to that syndicate from the sale of the 25,000 shares?

Mr. HIGBIE. I believe some did; yes.

Mr. PECORA. And how much of a profit was realized by the syndicate from the sale of that?

Mr. HIGBIE. I don't know, but a loss resulted from the balance, as you can see.

Mr. PECORA. Let us get one step at a time, please. How much of a profit accrued to the syndicate from the resale of 7,500 shares of the 25,000 shares that were purchased by Goldman-Sachs?

Mr. HIGBIE. Well, if it was exactly 7,500 shares I assume we made \$28,000, whatever four times 7,500 is.

Mr. PECORA. Yes.

Mr. HIGBIE. Do you see?

Mr. PECORA. And that profit was kept by the members of the syndicate, wasn't it?

Mr. HIGBIE. That profit was probably in the account.

Mr. PECORA. I say it was kept by the members of the syndicate, wasn't it?

Mr. HIGBIE. That profit remained in the account if it existed, Mr. Pecora. You know we don't close an account until the last share is sold. So it all remains there and the plus or minus in the account ultimately works out.

Mr. PECORA. Now, isn't it apparent to you, Mr. Higbie, from all that you have told us about these transactions—

Mr. HIGBIE. Yes, sir.

Mr. PECORA (continuing). That had the syndicate succeeded in reselling at a profit all of the 25,000 shares that it got from Goldman, Sachs & Co., at \$184 a share——

Mr. HIGBIE. Yes, sir.

Mr. PECORA (continuing). That profit would have been divided up among the members of the syndicate?

Mr. HIGBIE. Yes; it would.

Mr. PECORA. Which included certain individuals?

Mr. HIGBIE. Yes; it would.

Mr. PECORA. Now, in view of the fact that the syndicate, on account of the break in the market which came in the last part of October 1929——

Mr. HIGBIE. Yes, sir.

Mr. PECORA (continuing). Did not succeed in selling 7,500 shares of that stock, those shares were thrown back on the Guardian Detroit Co., at \$184 a share at a time when——

Mr. HIGBIE (interposing). They did not want them.

Mr. PECORA (continuing). Wait—at a time when the market had fallen to about \$125?

Mr. HIGBIE. Yes. I would not guarantee the figure of the market at that time.

Mr. PECORA. Well, we will take it as an approximate figure.

Mr. HIGBIE. Yes.

Senator COUZENS. Do I understand that if the syndicate, selling syndicate, has sold those shares at the approximate market of \$230 a share, the price it was when you bought them from Goldman-Sachs, Covington would have gotten 10 percent of those profits?

Mr. HIGBIE. No, sir; we never intended to do that.

Senator COUZENS. What did you intend to do?

Mr. HIGBIE. We intended to sell the stock at a favorable price showing us a slight mark-up on the whole 25,000 shares, a few points mark-up.

Senator COUZENS. You were going to sell them below the market?

Mr. HIGBIE. Yes, sir; we were going to sell them below the market.

Senator COUZENS. How many points mark-up were you going to sell them?

Mr. HIGBIE. Sufficient to make \$250,000 on 25,000 shares. It was about, I think, 11 points, either 11 or 10 points—10 points it would be.

Senator COUZENS. You were going to add 10 points to 184 and divide it up?

Mr. HIGBIE. And sell it at that; yes, sir.

Senator COUZENS. And as a result of the fact of your not being able to do that, Mr. Bitting and Mr. Covington did not get any profits?

Mr. HIGBIE. That is right.

Mr. PECORA. How was the figure of \$25,000 arrived at that the syndicate agreed to pay Mr. Covington?

Mr. HIGBIE. Sir?

Mr. PECORA. How was the figure of \$25,000 which the syndicate agreed to pay Mr. Covington in certain eventualities arrived at?

Mr. HIGBIE. Well, I think he asked for it.

Mr. PECORA. Was it just an arbitrary figure not based upon any definite calculation?

Mr. HIGBIE. That is my memory.

THE CHAIRMAN. His testimony was that he had no agreement but that you offered him that.

MR. HIGBIE. Well, maybe I am in error, but my best memory is that he asked for it.

MR. PECORA. Before we adjourn today may I ask Mr. Covington one or two questions? Will you come forward, Mr. Covington?

TESTIMONY OF HARRY S. COVINGTON—Resumed

MR. PECORA. Mr. Covington, have you heard the testimony of Mr. Higbie before this committee this afternoon?

MR. COVINGTON. Yes.

MR. PECORA. You have heard all of it?

MR. COVINGTON. As much as I remember; tried to remember.

MR. PECORA. Referring to the \$25,000 that you said this morning Mr. Higbie agreed to pay you for your services in connection with this transaction with Goldman, Sachs & Co., you testified you never got that \$25,000?

MR. COVINGTON. That is right.

MR. PECORA. Or any part of it?

MR. COVINGTON. Yes.

MR. PECORA. Did you consider you had a good claim against anybody for that \$25,000?

MR. COVINGTON. I did not know, Mr. Pecora. It was a verbal situation, and I did not know whether I had a good claim or not.

MR. PECORA. Did you offer to assign any such claim as additional security for a loan?

MR. COVINGTON. Yes, sir.

MR. PECORA. To whom did you make that offer?

MR. COVINGTON. The Union Co.

MR. PECORA. And you owed the Union Co. how much at that time?

MR. COVINGTON. \$97,500.

MR. PECORA. Did you actually assign that claim to them as additional security for that loan?

MR. COVINGTON. Yes, sir.

MR. PECORA. You assigned it by an instrument in writing?

MR. COVINGTON. I assigned it on the note. It was on a note. I don't think there was any assignment as collateral as I know of.

MR. PECORA. How long after you had this conversation with Higbie in which, according to your testimony, he agreed to pay you \$25,000 in connection with those services, did you make that assignment of that claim to the Union Co.?

MR. COVINGTON. How long afterwards?

MR. PECORA. Yes.

MR. COVINGTON. It must have been right 2 or 3 weeks afterwards.

MR. PECORA. The Union Co. was one of the investment affiliates or units of the Guardian Detroit Group?

MR. COVINGTON. Yes, sir.

MR. PECORA. Do you know whether the Guardian Detroit Union Group or whether the Union Co. at any time ever sought to enforce that claim which you had assigned to it against Mr. Higbie or anybody else?

MR. COVINGTON. I do not. I don't remember. I would not know whether they did or not by conversations.

Mr. PECORA. Now I want to just recall Mr. Higbie for a question about that.

Mr. COVINGTON. That assignment, Mr. Pecora, was Guardian Detroit Co. and Keane-Higbie.

Mr. PECORA. The assignment was to the Guardian Detroit Co.?

Mr. COVINGTON. No; the assignment was against the Guardian Detroit Co. and Keane, Higbie & Co.

Mr. PECORA. And not—

Mr. COVINGTON. Not against Mr. Carlton Higbie personally.

Mr. PECORA. Will you sit down again?

Mr. COVINGTON. Yes. I think there was a misunderstanding.

Mr. PECORA. Why did you assign a claim against the Guardian Detroit Co. and Keane, Higbie & Co., in view of the fact, according to your testimony this morning, that that promise to pay you that \$25,000 was made by Mr. Higbie?

Mr. COVINGTON. Well, I don't know whether he made it in an official capacity or whether he made it as an individual. I don't know that. Mr. Higbie was the one that told me. I only used his name as Mr. Higbie, but when I was asked about it later on I asked him about where he got it from and he said the Guardian Detroit Co. and "our Keane, Higbie & Co.", and that is the way it read.

Mr. PECORA. Did you tell the Union Co. at the time you assigned the claim the circumstances under which the claim arose?

Mr. COVINGTON. I don't remember whether I told them or not.

Mr. PECORA. As a banking officer you would know that it would be necessary to tell them something about the claim before they would accept it?

Mr. COVINGTON. I told them, I imagine, Mr. Pecora. I realize that I must have told them, but I don't think there is any conversation that I know anything about. I told them I had a claim and I assigned the claim. That is all there was to it.

Mr. PECORA. All right. That is all right then, Mr. Higbie. Never mind, in view of what Mr. Covington said, that the claim he assigned was a claim against the Guardian Detroit Co. and Keane, Higbie & Co. It is not necessary to question you further about that, but I will need you tomorrow morning at 10 o'clock.

Mr. HIGBIE. Yes, sir.

The CHAIRMAN. The committee will take a recess until 10 o'clock tomorrow morning.

(Accordingly, at 4.02 p.m., an adjournment was taken until 10 a.m. of the following day.)

STOCK EXCHANGE PRACTICES

FRIDAY, JANUARY 19, 1934

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE
ON BANKING AND CURRENCY,
Washington, D.C.

The subcommittee met at 10 a.m., pursuant to adjournment on yesterday, in room 301 of the Senate Office Building, Senator Duncan U. Fletcher presiding.

Present: Senators Fletcher (chairman), Adams, Townsend, and Couzens.

Present also: Ferdinand Pecora, counsel to the committee; Julius Silver and David Saperstein, associate counsel to the committee; and Frank J. Meehan, chief statistician to the committee.

The CHAIRMAN. The subcommittee will come to order, please. I see that Mr. Higbie has taken the chair at the table.

Mr. PECORA. Mr. Higbie, we won't want you on the stand any longer.

Mr. HIGBIE. I thank you.

Mr. PECORA. Mr. Bodman.

The CHAIRMAN. Mr. Bodman, please stand, hold up your right hand, and be sworn.

You solemnly swear that you will tell the truth, the whole truth, and nothing but the truth, regarding the matters now under investigation by the committee. So help you God.

Mr. BODMAN. I do.

TESTIMONY OF HENRY E. BODMAN, DETROIT, MICH.

Mr. PECORA. Mr. Bodman, will you please give to the committee reporter your full name, address, and business or occupation?

Mr. BODMAN. My name is Henry E. Bodman, 1400 Buhl Building, Detroit, Mich., attorney at law.

Mr. PECORA. Mr. Bodman, were you connected with the Guardian Detroit Union Group, Inc., in any capacity?

Mr. BODMAN. I was.

Mr. PECORA. In what capacity?

Mr. BODMAN. I was one of the original organizers, and for 2 years I was the chairman of the executive committee.

Mr. PECORA. Were you also a director?

Mr. BODMAN. And also a director.

Mr. PECORA. Did you continue to act as a director from the inception of the corporation down to the date when the receiver for it was appointed last year?

Mr. BODMAN. I did.

Mr. PECORA. Were you also attorney or counsel for the corporation, or its legal adviser?

Mr. BODMAN. I acted as legal adviser for the Guardian Detroit Group, Inc., and the Guardian Detroit Union Group.

Mr. PECORA. Do you recall early in the year 1930 that the practice commenced whereby the group wrote surety bonds guaranteeing the repayment of certain deposits in behalf of various of its unit banks?

Mr. BODMAN. I cannot remember when the practice began, but I do remember that they did it.

Senator TOWNSEND. Mr. Pecora, was the guaranteeing done for the unit banks only, or was it done for outside banks as well?

Mr. PECORA. For unit banks only.

Senator TOWNSEND. All right.

Mr. PECORA. Now, Mr. Bodman, were you consulted about that practice before it was instituted?

Mr. BODMAN. I wouldn't say I was, but I was consulted about it, and whether it was before or after, I am not sure. But I was consulted, and I rendered an opinion in regard to it.

Mr. PECORA. Do you recall the substance of the opinion that you rendered?

Mr. BODMAN. I rendered an opinion that they had the legal right to enter into such bonds. And I might further say that additional advice was taken from two other firms in Detroit on that subject independently, and those firms were Goodwin, Hill & Hamblen and Bulkley, Ledyard, Dickinson & Wright.

Senator COUZENS. And they were all in agreement?

Mr. BODMAN. Yes, Senator Couzens; they were all in agreement.

The CHAIRMAN. That it was within the chartered powers of the corporation?

Mr. BODMAN. Yes, Senator Fletcher; that it was within their chartered powers. I also obtained the opinion of the attorney general of the State of Michigan on that subject.

Senator TOWNSEND. And, of course, he was also an attorney?

Mr. BODMAN. He was, and I have a copy of his opinion here.

Mr. PECORA. Will you produce a copy of the opinion that the attorney general of the State of Michigan rendered on the subject?

Mr. BODMAN. Yes. May I read a copy of my letter to him, to which the attorney general of Michigan replied enclosing his opinion?

Mr. PECORA. Yes.

Mr. BODMAN. On May 11, 1931, I wrote the following letter to the attorney general of the State of Michigan [reading]:

MAY 11, 1931.

Hon. PAUL W. VOORHEIS,
Attorney General, Lansing Mich.

DEAR MR. VOORHEIS: I am taking the liberty of attaching to this letter copies of previous correspondence on the subject of the execution by Guardian Detroit Union Group of surety bonds guaranteeing deposits of public funds held by so-called units of the "Group Co."

We are very anxious to discontinue this practice if there is any objection whatever on the part of any of the State authorities, including particularly the banking commissioner and yourself. I have no doubt that the pressure of other matters during the session of the legislature has made it necessary to lay this matter aside, and I am very hopeful that we can have an opinion from your department at an early date.

Yours very truly,

(Signed) HENRY E. BODMAN.

And that letter, as I stated, I addressed to him on May 11.

Mr. PECORA. You say "May 11, 1931"?

Mr. BODMAN. Yes. Now, may I read the reply?

Mr. PECORA. If you will.

Senator COUZENS. Had you issued any surety bonds prior to that time?

Mr. BODMAN. I am not sure, but I think we had.

Senator TOWNSEND. You stated in your letter that you were anxious to discontinue that practice, which shows that you had.

Mr. BODMAN. Yes; I imagine so.

The CHAIRMAN. It was only to guarantee public deposits, not individual deposits?

Mr. BODMAN. Oh, no; just public funds.

Mr. PECORA. All right. You may proceed.

Mr. BODMAN. On May 12, 1931, the Attorney General replied to me as follows [reading]:

STATE OF MICHIGAN,
ATTORNEY GENERAL'S DEPARTMENT,
Lansing, May 12, 1931.

PAUL W. VOORHIES,
Attorney General,
EMERSON R. BOYLES,
Deputy.

MR. HENRY E. BODMAN,
Attorney at Law, Detroit, Mich.

My DEAR MR. BODMAN: I acknowledge receipt of your letter of May 11, attached to which are copies of letters dated December 23 and April 14, written relative to the right of the Guardian Union Group to issue bonds guaranteeing deposit of public funds held by units of the Group Co.

This question was before my office some little time ago, and I am enclosing herewith, a copy of an opinion dated January 27, 1931, which was written to Hon. Charles D. Livingston, commissioner of insurance. I trust that this opinion will answer the inquiry contained in your letter.

Very truly yours,

(Signed) PAUL W. VOORHIES,
Attorney General.

Now, Mr. Pecora, a copy of that opinion is attached to this correspondence.

Mr. PECORA. May I have it?

Mr. BODMAN. Yes, indeed.

Mr. PECORA. Mr. Bodman. I have what purports to be a photostatic copy of this opinion rendered by the attorney general of Michigan to the commissioner of insurance, under date of January 27, 1931. Will you look at it and tell me if you recognize it as being in conformity with the copy which you have presented of that opinion?

Mr. BODMAN. Well, I won't take the time to compare it with your photostat, but I have no doubt it is. I mean, I will not take the time to read it over.

Mr. PECORA. I have made a cursory comparison, and I think it is all right.

Mr. BODMAN. I have no doubt it is.

Mr. PECORA. Mr. Chairman, I offer this photostat in evidence.

The CHAIRMAN. Let it be admitted and made a part of the record.

(The opinion rendered by the attorney general of Michigan, Jan. 27, 1931, was marked "Committee Exhibit No. 95, January 19, 1934", and will be found at the end of the day's proceedings.)

Mr. PECORA. Now, the opinion is very lengthy, but at this time I will read—

Mr. BODMAN (interposing). May I have the letters I read to the attorney general and his reply, which you have received in evidence also?

Mr. PECORA. Certainly. Here they are.

The CHAIRMAN. They have already been read and have become a part of the record.

Mr. BODMAN. I would like to have them on your record.

Mr. PECORA. Mr. Bodman, the only advantage that accrued to the group in the writing of those surety bonds, instead of having them written by an independent surety company, was the saving effected in the payment of premiums, wasn't it?

Mr. BODMAN. Mr. Pecora, I cannot answer that question. There was a saving, of course, but later on it became almost impossible to get surety bonds for public funds, and in 1932 the Michigan Legislature passed an act dispensing with surety bonds for some public funds.

Mr. PECORA. Let me bring to your attention the following extract from the minutes of a meeting of the executive committee of the board of directors of the Guardian Detroit Union Group, Inc., held on February 3, 1930, at which meeting you as chairman of the executive committee presided, according to the minutes. And have you that record?

Mr. BODMAN. No; I do not think I have that here. There was something else among my papers I was going to look at.

Mr. PECORA. I want to read the following excerpt therefrom:

Mr. Stalker brought to the attention of the executive committee that from time to time certain of our units were called upon to furnish bonds covering deposits of public funds, and suggested that the group could effect considerable savings by acting as surety instead of furnishing bonds through a surety company.

It was the sense of the meeting that until such time as the board of directors meet no general procedure should be determined upon, but in order to provide for the case presented, in the case of the Union State Bank of Dearborn the following resolution should be presented to the executive committee

"Resolved, That the proper officers of the Guardian Detroit Union Group, Inc., be and they are hereby authorized to execute in the corporate name of said company and under its corporate seal, a bond in the amount of \$500,000 as surety for the Union State Bank of Dearborn, Dearborn, Mich., covering the deposit in said bank, of public funds of the city of Dearborn, Mich."

The foregoing resolution being duly offered and seconded, was unanimously adopted.

I understand that according to the minutes of either the executive committee of the board of directors or of the board of directors of the Guardian Detroit Union Group, Inc., this was the first time that any action was taken with respect to the group writing surety bonds for any of its unit banks. Now, does that accord with your recollection?

Mr. BODMAN. I have no recollection as to when it began whatever, but if you say that you have looked up the minutes and that is shown, I will be perfectly willing to state that that is the fact.

Mr. PECORA. Now, I have before me what purports to be an excerpt from the minutes of the meeting of the board of directors of the group, held on March 12, 1930, a little over a month after the meeting of the executive committee from the minutes of which I have just read, and this excerpt from the minutes of the meeting of the board on March 12, 1930, reads as follows, and it appears at page 10 of the minute book [reading]:

Resolved that in the discretion and with the approval of the executive committee, the proper officers of the Guardian Detroit Union Group, Inc., be and they are hereby authorized to execute from time to time, in the corporate name of said company and under its corporate seal, surety bonds for public or other funds on deposit with any unit of the group.

Have you any recollection of that action?

Mr. BODMAN. I know that such action was taken, but I haven't any definite recollection of that particular meeting. I know that that was done, however.

Mr. PECORA. Mr. Bodman, you have called attention here to the letter that you wrote some time in 1931 to the attorney general of the State of Michigan, and in response to which you received a copy of the opinion rendered by the attorney general to the commissioner of insurance.

Mr. BODMAN. That is correct.

Mr. PECORA. Under date of January 27, 1931.

Mr. BODMAN. Yes.

Mr. PECORA. As a matter of fact, didn't you express your opinion, as the legal adviser of the company, that the group had the right to execute and furnish the surety bonds for its unit banks in order to secure deposits of public funds?

Mr. BODMAN. Yes, sir.

Mr. PECORA. And that was long before the date of the letter you wrote to the attorney general of Michigan?

Mr. BODMAN. I do not know how long before, but I had expressed a legal opinion to that effect.

Mr. PECORA. For the purpose of refreshing your recollection thereon I show you what purports to be a photostatic copy of a letter written by you under date of June 17, 1930, addressed to the Hon. Paul H. King, referee in bankruptcy, Detroit, Mich. Will you look at it and tell me if you recognize that as a photostat of such a letter sent by you?

Mr. BODMAN. I will.

Mr. PECORA. And it is such a letter?

Mr. BODMAN. Yes; it is.

Mr. PECORA. Mr. Chairman, I offer it in evidence.

The CHAIRMAN. Let it be admitted and entered on the record.

(A photostat of a letter written June 17, 1930, by Henry E. Bodman to Paul H. King, referee in bankruptcy, Detroit, Mich., was marked "Committee Exhibit No. 96, Jan. 19, 1934", and will be found immediately following where read by Mr. Pecora.)

Mr. BODMAN. May I now look at that photostat for a moment?

Mr. PECORA. Yes.

Mr. BODMAN (after reading the letter). All right.

Mr. PECORA. The letter received in evidence as committee exhibit no. 96, being on the letterhead of Henry E. Bodman, attorney and counselor at law, is as follows [reading]:

DETROIT, June 17, 1930.

Hon. PAUL H. KING,

Reference in Bankruptcy, Detroit, Mich.

DEAR SIR: The question has been submitted to me whether Guardian Detroit Union Group, Inc., has power to become surety on bonds guaranteeing deposit of bankruptcy funds deposited with banks of which the Group Co. owns substantially all of the stock.

Of the National Bank of Commerce, Guardian Detroit Bank, Second National Bank of Saginaw, and various other banks, the Group Co. owns all except directors qualifying shares. Under the well-known doctrine that corporations have the power to become surety and to guarantee the obligations of subsidiary companies, which doctrine has been recognized in Michigan, the Guardian Detroit Union Group can, in my opinion, legally assume the obligations of such suretyship.

The Group Co. is not organized specifically to engage in the business of becoming surety, but it has full power to own the stocks of other corporations, including the stock of banks and trust companies, and I have no doubt of its power to become surety under the circumstances above referred to.

Yours very truly,

HENRY E. BODMAN.

Mr. Bodman, the contention you advanced in this letter, or the opinion expressed in this letter, was based upon the fundamental principle upon which you advised the group that it had the legal power to execute and furnish the surety bonds to its unit banks; is that it?

Mr. BODMAN. That is right.

The CHAIRMAN. What is the date of that letter, Mr. Pecora?

Mr. PECORA. June 17, 1930.

The CHAIRMAN. All right.

Mr. PECORA. Mr. Bodman, it was not based upon any specific ground contained in the charter of the company, was it?

Mr. BODMAN. It was not.

Mr. PECORA. Did you first learn of the rendition of the Attorney General's opinion to the Commissioner of Insurance, a copy of which has been marked in evidence as "Committee's Exhibit No. 95", when you received that letter from the Attorney General in response to your letter to him, which you have read into the record?

Mr. BODMAN. No. I don't remember when, but I think not. I think I had heard that the question had been raised and that he had rendered such an opinion. I had written prior thereto for his opinion. Am I right about that?

Mr. PECORA. I think you wrote some time in March of 1931 originally.

Mr. BODMAN. I think my letter will show that.

Mr. PECORA. I want to call your attention to the following excerpt from the Attorney General's opinion to the Commissioner of Insurance.

Mr. BODMAN. May I look at my copy of the paper again?

Mr. PECORA. Certainly. It is next to the last page of the opinion, which opinion is rather a lengthy one. It is as follows:

It is my conclusion, therefore, that as long as a holding company limits its guaranty and surety undertakings to its subsidiary units upon whose business it depends for the success of its own existence, there can be no legal objection to such action. There must in all such cases, however, be a direct relationship between the guaranty and the business of the guaranteeing company.

I feel called upon, however, by motives of public policy, to caution depositors, especially municipal corporations, against the too-liberal exercise of the rule here announced. While not, strictly speaking, a legal question, there is, however, an important question of policy to which I must allude. The purpose of a guaranty is to insure the faithful performance of an undertaking by the principal, in default of which the person identified or the obligee may resort to the liability assumed by the guarantor. Applied to the instant case, it means simply that if a municipal corporation should deposit funds in a bank and the security of those deposits should be guaranteed by a mercantile corporation organized to hold the stock of that bank and of other banks, and the bank should fail, the depositor would have recourse against the assets of the holding company as the guarantor. However, as already pointed out, the assets of the holding company consist chiefly, if not entirely, of stocks including the stock of the defunct bank. The value of the holding company's assets is therefore no greater than the total value of all of the stock in its portfolio, except, of course, for such cash assets which it may own in the way of undivided profits, etc. It is entirely conceivable, however, that the failure of a bank may directly result in the failure of a holding company, or at least result in serious impairment of the holding company's assets. In such a case the situation would be one where the bank in effect guaranteed its own obligations, and the depositor would find himself without secondary protection of any kind. In fact, if the sole assets of the holding company should be the stock of the defunct bank, the guaranty would fall with the principal obligation. There is, therefore, an element of danger in the practical application of the holding reached above, to which attention should be directed.

Mr. PECORA. You agree with the observation of the Attorney General that I have just quoted, do you not?

Mr. BODMAN. I do not say that I agree with it. I think he overlooked the fact that in the stock of the holding company was the provision for the liability of the surety, which I think did add an element of additional safety to depositors.

Mr. PECORA. Well, that liability attached anyway because of the surety bond given by the holding company?

Mr. BODMAN. Yes; it attached anyway.

Mr. PECORA. The fact is, as events have since transpired and developed, that the observation of the Attorney General which I have just read to you from his opinion seems to have been fairly a forecast of what happened?

Mr. BODMAN. The events certainly did not turn out as anybody anticipated at that time. I think, looking back, it was a forecast.

Mr. PECORA. When this opinion of the Attorney General was brought to your attention in 1931, did you do anything about calling it to the attention of the group?

Mr. BODMAN. I do not recall.

Mr. PECORA. So far as you know, did the group continue to write surety bonds for its various unit banks?

Mr. BODMAN. I think it did.

Mr. PECORA. And continued to do until an amendment of the law of the State of Michigan deprived it of the legal power to do so?

Mr. BODMAN. That is right.

Mr. PECORA. But right up to the last minute, right up to the time when the amendatory act became effective, the group continued to write these surety bonds?

Mr. BODMAN. That is right.

Mr. PECORA. Do you know how many of these bonds had been written and were outstanding and in effect?

Mr. BODMAN. I do not know. I know there was a large amount.

Mr. PECORA. Over 12 million dollars?

Mr. BODMAN. If you say that is so, I would not hesitate to admit it.

Mr. PECORA. Do you know the amount of claims, in dollars and cents, that have been made under these surety bonds against the group?

Mr. BODMAN. I do not.

Mr. PECORA. Do you know that they aggregated over 7 million dollars?

Mr. BODMAN. No; I do not know that.

Mr. PECORA. But you are cognizant of the fact that while these surety bonds were being written by the group for its unit banks the Group Co. was executing these surety bonds and furnishing them from time to time as occasion required?

Mr. BODMAN. That is correct.

Mr. PECORA. Did you not recognize that there was a contingent liability attaching to the Group Co. under those surety bonds?

Mr. BODMAN. Did I recognize there was a contingent liability?

Mr. PECORA. Yes.

Mr. BODMAN. I suppose I did.

Mr. PECORA. Do you know whether or not in any statement of financial condition or report of financial condition made by the Group Co. that contingent liability was shown?

Mr. BODMAN. I do not know of any.

Mr. PECORA. You know that the fact is that it was never shown in any such report, do you not?

Mr. BODMAN. I would say yes; it was not, to my knowledge.

Mr. PECORA. Do you consider that that was sound practice, not to include in its reports or statements any mention at all of the contingent liability represented by the surety companies?

Mr. BODMAN. I do not think the question ever presented itself to me in connection with those reports.

Mr. PECORA. You were a director continuously in this Group Co. from the time of its inception up to the time a receiver was appointed, were you not?

Mr. BODMAN. That is correct.

Mr. PECORA. You were also legal adviser to the group?

Mr. BODMAN. I was.

Mr. PECORA. You read, I assume, the reports that were issued from time to time to the stockholders by the executive officers of the group?

Mr. BODMAN. I did.

Mr. PECORA. Did you have anything to do with the preparation of any of those reports?

Mr. BODMAN. I will say that in preliminary drafts of those reports—I will not say as to all of them, but as to some of them—they were submitted in draft form to one or two of the members of the executive committee, including Dr. Murphy and myself. I do not know who else. I know there were others.

Mr. PECORA. Were the drafts of the tentative or proposed reports so submitted to you in such form as to show or give a complete statement of the financial condition of the group as a whole?

Mr. BODMAN. Well, so far as the form of the reports is concerned, I do not think I ever considered anything about the form. I assumed that they did correctly state the condition and position of the Group Co. when they were sent out.

Mr. PECORA. Were you so familiar with the actual position or condition of the Group Co. as of the times to which these annual reports relate as to enable you to determine whether or not the report correctly showed the true financial condition or position of the group?

Mr. BODMAN. Was I sufficiently familiar?

Mr. PECORA. Yes.

Mr. BODMAN. I took the figures that were presented or brought in by the audit department, I presume. That part of the statement I do not think was ever taken up with me, as to the propriety of its form. I do remember that in one or two of those statements some of the language that was put in there was put in at my suggestion. There is one instance that does stand out in my mind in connection with the performance of the trust company with regard to the management of its trusts. If you remember, in one of them there is something about that.

Mr. PECORA. You know that in its annual reports no information is given of the earnings of those units of the group which were non-banking units?

Mr. BODMAN (after conferring with associates). No; I do not know that.

Mr. PECORA. Is it your impression that such information is contained in the annual reports?

Mr. BODMAN. I should have to study them before I could answer that question. Since you brought that question up before, I have examined some of these reports—

Mr. PECORA. That is, within recent days?

Mr. BODMAN. Within the last month—and I think the earnings of the investment companies were stated. They were nonbanking units.

Mr. PECORA. Can you refer us to any such statement?

Mr. BODMAN. I asked Mr. Lord to give me an analysis of the differences, and I notice in connection with 1931 the earnings of the investment companies, before and after reserves, are stated. I am not stating that on my own—

Mr. PECORA. What page?

Mr. BODMAN. I do not know.

Mr. PECORA. Can you refer to the inclusion in the report for any other year of any similar matter?

Mr. BODMAN. Other than 1931?

Mr. PECORA. Yes; other than the instance you have just given.

Mr. BODMAN. 1931 is the one I took it from. In 1929—I am still consulting this memorandum that I did not prepare—in 1929 the aggregate gross and net earnings of all units of the group, before reserves and afterwards, are stated.

Mr. PECORA. All units collectively?

Mr. BODMAN. Yes.

Mr. PECORA. And there was a detailed statement embodied of the financial condition of each banking unit?

Mr. BODMAN. Yes.

Mr. PECORA. But no detailed statement of any nonbanking unit?

Mr. BODMAN. I believe that is correct.

Mr. PECORA. So that the statement you have referred to might include a loss sustained by any nonbanking unit without the fact of

such loss having been sustained becoming apparent to any stockholder reading the report; is not that so?

Mr. BODMAN. I really ought not to testify on this subject without knowing more than I do about those reports, but I would think not. I think this, that the aggregate gross and net earnings of all the units of the group, before reserves for contingencies and afterwards, and also dividends paid, were shown in the report.

Mr. PECORA. Could anyone tell by reading the statement whether or not any nonbanking unit had operated at a loss?

Mr. BODMAN. Any of the statements?

Mr. PECORA. Yes.

Mr. BODMAN. Oh, I would think so.

Mr. PECORA. Point it out to me, will you please?

Mr. BODMAN. I think there is one report that I know was called to your attention—at least, I think it was, before Mr. Lord was on the stand, where the operating loss of the investment companies was stated; or, I will say, the operating losses of the nonbanking units were stated.

Mr. PECORA. I do not recall that, Mr. Bodman.

Mr. BODMAN. Don't you? Well, maybe I am wrong on that.

Mr. PECORA. Were you a member of the executive committee of the board of directors of the group from the inception of the group, or only for the first 2 years?

Mr. BODMAN. The first 2 years; and while I am on that subject, may I read from a bylaw defining the duties of the chairman and executive committee?

Mr. PECORA. Surely.

Mr. BODMAN. I do not want you to get the idea that I was an operating officer in any of these companies. The duties of the chairman of the executive committee are defined as follows:

The directors shall elect a chairman of said committee—

This is under the heading of executive committee—

whose duty it shall be to preside at meetings thereof.

Mr. PECORA. What are the duties of the executive committee as defined by the bylaws?

Mr. BODMAN. They are to function in the interim between the meetings of the directors, with the full power of the directors.

Mr. PECORA. And you as chairman—

Mr. BODMAN. What I meant was that as chairman I had no operative function; I had no salary and had nothing to do with the operation of the company except to act as a director and to pass on legal questions as they were presented to me.

Mr. PECORA. Would you say that you regarded your chairmanship of the executive committee as imposing upon you merely nominal duties?

Mr. BODMAN. I would say that my duties were exactly as defined in that bylaw.

Mr. PECORA. Would you characterize them as nominal duties?

Mr. BODMAN. No; I would not say they were nominal duties. I do not think the duties of any director are nominal. I do not think they are any greater than any other director's.

Mr. PECORA. You were under annual retainer to the group to render it legal advice?

Mr. BODMAN. No; I was not.

Mr. PECORA. But you were its legal officer?

Mr. BODMAN. I was not the only one; but from time to time they would retain, and have retained, other counsel. I acted as their counsel, and I sent a bill in at the end of each year for what I felt would properly compensate me for my services.

Mr. PECORA. I notice in the annual report to the stockholders of the group—

Senator COUZENS. For what year?

Mr. PECORA. 1931—that in the list of officers of the group your name is contained as counsel.

Mr. BODMAN. I have no doubt of it; but if you want to know the fact, I never was elected. No action was ever taken, so far as I can find out, to make me such. I did act as such. I have no doubt that my name appears.

Mr. PECORA. With your knowledge and consent?

Mr. BODMAN. Yes.

Mr. PECORA. And you were held out to the public as counsel for the company?

Mr. BODMAN. That is right.

Mr. PECORA. Mr. Bodman, did you know, prior to the institution of these hearings, or prior to the time when this group has a receiver appointed for it, that the group, at the end of the years 1930, 1931, and 1932, actually had a deficit?

Mr. BODMAN. After dividends?

Mr. PECORA. Yes.

Mr. BODMAN. I presume I did.

Mr. PECORA. Well, is it more than an assumption on your part?

Mr. BODMAN. It is not a matter of definite recollection. The earnings of the different units were read from time to time at directors' meetings, and I have no doubt that after the payment of dividends an operating deficit was shown. I have no distinct recollection of it.

Mr. PECORA. Did you as a director approve of the declaration of dividends in amounts and at times when the result of such declaration and payment of dividends was a deficit?

Mr. BODMAN. I would not say that. I approved of all of the declarations of dividends at any meeting that I attended. I do not know whether there was a deficit or not, because the deficit was frequently not determined until the end of the year. However, that did not seem important to me, and would not today. The group was a holding company, and its investments were in these bank units and investment units, and they were the real earning power of that group.

Mr. PECORA. Did you help prepare or give any advice in connection with the preparation of the annual reports that were filed with the Michigan Securities Commission by the group?

Mr. BODMAN. I did not. I never saw them until they were presented at this hearing.

Mr. PECORA. You knew that the Michigan statute required the filing of such reports with the securities commission?

Mr. BODMAN. I did. I assumed they were sent in, if I thought about it; but I was not consulted, neither did I see them.

Mr. PECORA. You had nothing to do with the preparation of them?

Mr. BODMAN. No.

Mr. PECORA. And you did not know that such reports were filed, or the substance or contents of any such reports, until the evidence relating thereto was brought out before this committee?

Mr. BODMAN. If I thought about it at all I would have assumed they were filed; but the first time I ever saw them was when they were presented here.

Mr. PECORA. Was that the first time you learned anything about the substance of those reports?

Mr. BODMAN. What do you mean by the substance?

Mr. PECORA. The contents, the general showing indicated by the reports.

Mr. BODMAN. I would not say that. I think those reports were in accordance with facts, that after the end of the year the deficits shown in there after the payment of dividends had arisen.

Mr. PECORA. You have read the annual reports sent out by the group to its stockholders?

Mr. BODMAN. Yes.

Mr. PECORA. Would you say that one reading those annual reports would get a true picture, an accurate picture, of the financial condition of the group?

Mr. BODMAN. I think he would. I think he could very easily, because I think the essential facts are there.

Mr. PECORA. Was the essential fact that in each of the years 1930, 1931, and 1932 the group operated at a loss or deficit set forth in any way, shape, or form in any of the annual reports for those years?

Mr. BODMAN. You are talking about the group or the Group Co.?

Mr. PECORA. The Group Co.

Mr. BODMAN. That makes quite a difference.

Mr. PECORA. Whenever I refer to the group I am referring to the Group Corporation, known as the "Guardian Detroit Union Group, Inc."

Mr. BODMAN. No; I do not remember that there was anything in any of those reports that specifically stated that.

Mr. PECORA. Or that indicated that?

Mr. BODMAN. Yes; I think it might very reasonably have indicated it.

Mr. PECORA. Show me a single statement embodied in any annual report issued by the group from which the reader would learn or could learn that the group had operated at a deficit in that year.

Mr. BODMAN. Without further study of those reports I really could not answer that question.

Mr. PECORA. You say that during the past month you have had these annual reports scanned by somebody?

Mr. BODMAN. Yes. We have discussed them, Mr. Lord and I as indicated, but I think he could testify to it much better than I could.

Mr. PECORA. Mr. Bodman, did you ever have occasion to make any comments to Mr. Lord or any other executive officer or officers of the Group Co. with regard to the lack of information given out even

to the directors of the group at meetings of the board with respect to the financial condition of the Group Co.?

MR. BODMAN. Unless you can refresh my recollection about it I could not answer that.

MR. PECORA. Let me see if this serves to refresh your recollection. I show you what purports to be a photostatic reproduction of a so-called "Intra-Group Memorandum" dated August 27, 1931, addressed by you to Mr. Robert O. Lord on the subject of executive committee meeting. Will you look at it and tell me if you recognize it to be a true and correct copy of such a memorandum sent by you to Mr. Lord on or about the date which it bears?

MR. BODMAN. Yes; this is my signature, and I have no doubt of it. I had entirely forgotten it, but I have no doubt that I wrote it.

MR. PECORA. I offer it in evidence.

THE CHAIRMAN. Let it be admitted.

(Photostatic copy of Intra-Group Memorandum dated August 27, 1931, to Mr. Robert O. Lord and signed by Mr. Henry E. Bodman, was received in evidence, marked "Committee Exhibit No. 97, Jan. 19, 1934.")

MR. PECORA. The document which has been received in evidence as committee's exhibit no. 97 of this date, reads as follows. It is on the letterhead of the Guardian Detroit Union Group, Inc., and is entitled "Intra-Group Memorandum," addressed to Mr. Robert O. Lord, from Mr. Henry E. Bodman; subject, "Executive Committee Meeting", dated August 27, 1931 [reading]:

I think an improvement can be made in the manner of submitting information as to earnings and condition of the companies in the group. At the last meeting Mr. Patterson read a long list of figures which are difficult to retain and which leave a very indefinite picture of what they represent. After these figures are read there is lacking a general summarizing comment upon the condition of the companies in the group. I would suggest, therefore, that such statements as are to be presented be typewritten and that each attending member have a copy (which he will surrender before leaving the meeting and the premises) and that after an opportunity has been presented to examine these figures you should comment upon the figures and upon the condition of the group as a whole, with special emphasis upon such units as need special comment, and that you would submit any suggestions which occur to you as to the condition and earnings of the various companies, and lay before the meeting any suggestions that you think might be profitable to discuss.

I do not mean this as a criticism, but I have a feeling that the meetings are rather pointless, because the matters are thrown on the table in haphazard fashion and no formal report is made by any of the group officers. I am not sure in just how much detail these reports should be made, but I am certain there should be some such report. After the last meeting two of the members of the committee called my attention to the fact that there never had been submitted, either to the board of directors or to the executive committee, a statement of the Group Co. showing its income and expenses or how its funds were invested. I think this is very unfortunate, and I wish at the next meeting such a statement would be submitted in writing. This report, I think, should be in the form of a balance sheet and an income and expense account for, say, the first 6 months of 1931, and a statement made as to how the earnings are invested. We should, I think, bear in mind that there are members of the group who are not in touch with the situation in Detroit and who should go away from these meetings feeling that they have had a picture presented to them in such a way that they can go back to their associates feeling that they are informed. I think that a statement of the affairs of Keane, Higbie & Co. and the Guardian Detroit Co. should also be reported on regularly. These are matters concerning everybody in the group. It is unfortunate to have our associates learn of important situations indirectly. They are entitled to have these matters brought to their attention by the officers direct.

I would be glad at your convenience to sit down and discuss with you and Mr. Patterson the form in which this information should be submitted. I am certain we can improve the impression which these meetings create in the minds of those who attend. I do not think it is sufficient to advise the attending members that all of the information on any subject is available and open to inspection. Fundamental and important things should be prepared in advance and presented, and the members should not be expected to dig things out for themselves. I have reference in this connection particularly to the inquiry Mr. Morley made in reference to the Group Co. After the meeting he stated that he would dislike very much to be put on the stand and to be made to admit that he never had seen a statement of the Group Co.'s income and operating expenses. You will recall he asked for this information, and the reply was that all of the figures were available to anyone who was interested. As above stated, I do not think that is sufficient.

Please regard the foregoing as a suggestion intended to be constructive and not critical.

HENRY E. BODMAN.

Mr. BODMAN. That is correct.

Mr. PECORA. You felt that there was enough justification in the facts to warrant the criticism or suggestion that you embodied in this memorandum that you addressed to Mr. Lord?

Mr. BODMAN. I felt exactly as I expressed myself in that letter.

Mr. PECORA. Had that been a growing feeling or impression on your part that had accumulated over a period of time?

Mr. BODMAN. I cannot say that it had been a growing feeling. Mr. Patterson read a great many figures and they were difficult to retain.

Mr. PECORA. Had the practice followed by the officers in giving reports and information to members of the board of directors and members of the executive committee of the board of directors at the meetings of those boards, respectively, which you complained of in this memorandum, been the practice that had been followed and observed from the inception up to the time you wrote this memorandum in August 1931?

Mr. BODMAN. I would say so.

Mr. PECORA. If that is the case, do you recall ever having called the attention of Mr. Lord to the unwise of this practice prior to the date of this memorandum, exhibit no. 97?

Mr. BODMAN. No; I do not recall having called his attention to it, nor anybody else, prior to that date.

Mr. PECORA. Do you know what was done, if anything, to correct the things that you complained of or criticized in this memorandum?

Mr. BODMAN. What is the date of that?

Mr. PECORA. August 27, 1931.

Mr. BODMAN. I think, beginning in 1932—my recollection may be a little hazy about this, but my recollection is that beginning in 1932, and possibly prior thereto, there were printed or written figures. Instead of having them read, they were prepared.

Senator ADAMS. Mr. Chairman, I do not believe the general counsel needs coaching on the witness stand as to what was done.

Mr. BODMAN. No, sir.

Mr. HENRY E. BODMAN, Jr. I have some facts that I was going to tell him.

Senator ADAMS. You are not on the stand, sir.

Mr. HENRY E. BODMAN, Jr. I beg your pardon.

Mr. BODMAN. I want to say that beginning in 1932 Mr. Kanzler became chairman of the board of the Group Co., and it was at my suggestion that they put a banker on as chairman of the executive committee, and I think I suggested Mr. Shorts, from Saginaw, who was associated with Mr. Morley, who is referred to in that letter; and from that time I am sure the reports were written—I mean the figures that I talked about as having been read were submitted in writing.

Mr. PECORA. Was that the only thing that was done to meet the objections that you expressed in this memorandum?

Mr. BODMAN. I cannot recall anything else. I do not know when the practice of submitting reports began. My attention has not been called to it from that day to this, but I will say that following that letter, it may not have been immediately, but shortly after that, we began to present them in writing.

Mr. PECORA. This is a rather significant statement that you embodied in this memorandum of yours to Mr. Lord, exhibit no. 97 [reading]:

I have reference in this connection particularly to the inquiry Mr. Morley made in reference to the Group Co. After the meeting he stated that he would dislike very much to be put on the stand and be made to admit that he had never seen a statement of the Group Co.'s income and operating expenses. You will recall he asked for this information, and the reply was that all the figures were available to anyone who was interested.

Mr. Morley was a member of the executive committee of the board at that time?

Mr. BODMAN. I think he was.

Mr. PECORA. And had been for some time prior to August 1931?

Mr. BODMAN. That is correct.

Mr. PECORA. Apparently, from this statement of yours in this memorandum, not even the members of the executive committee of the board of directors were ever informed, at board meetings or otherwise, of the Group Co.'s income and operating expenses.

Mr. BODMAN. No; I would not say that letter showed that. I said he had never seen a balance sheet. Isn't that what he says?

Mr. PECORA. That is what you said he said.

Mr. BODMAN. Yes.

Mr. PECORA (reading):

After the meeting he stated that he would dislike very much to be put on the stand and be made to admit that he never had seen a statement of the Group Co.'s income and operating expenses. You will recall he asked for this information and the reply was that all the figures were available to anyone who was interested.

Mr. BODMAN. I do recall that.

Mr. PECORA. I take it that Mr. Morley's experience, as he made you aware of it, was that of every other member of the executive committee of the board of directors. Is that a fair assumption?

Mr. BODMAN. I cannot say that, Mr. Pecora. Mr. Morley did not attend many of the meetings. He was a very elderly man, and he came down from Saginaw, I would say, to a very few meetings, but the practice had been to read off the figures, exactly as I have testified.

Mr. PECORA. Had the practice been merely to read them off, without making any comment thereon?

Mr. BODMAN. No; I would not say that. I think a good deal of comment was made. I mean, there were people in from these unit banks who made comments on the progress of their own banks.

Mr. PECORA. Here is what you said in this memorandum, among other things [reading]:

After these figures are read there is lacking a general summarizing comment upon the progress and condition of the companies in the group.

Mr. BODMAN. That is right.

Mr. PECORA. You were calling attention then to the situation that had existed from the inception of the Group Co., were you not?

Mr. BODMAN. I imagine I was.

Mr. PECORA. What led you to make the following statement in this memorandum to Mr. Lord [reading]?:

I think that a statement of the affairs of Keane, Higbie & Co., and the Guardian Detroit Co. should also be reported on regularly. These are matters of concern to everybody in the group. It is unfortunate to have our associates learn of important situations indirectly. They are entitled to have these matters brought to their attention by the officers directly.

Mr. BODMAN. What led me to make that comment?

Mr. PECORA. Yes.

Mr. BODMAN. Because I do not think the investment companies' statements were submitted independently. I did not think sufficient emphasis was laid upon them. Was this 1931?

Mr. PECORA. This is August 27, 1931.

Mr. BODMAN. You see, the investment companies had entered this depression with a very large portfolio of securities, and it was in the fall of that year that it was decided to liquidate, but it was a matter of concern to us, and that was one of our difficulties—the fact that they had on hand a large inventory of securities which, in the depressed condition of the market, were causing concern.

Mr. PECORA. Was it because of those conditions, do you think, that the directors and members of the executive committee of the board of the Group Co. were not told regularly of the affairs of Keane, Higbie & Co. and the Guardian Detroit Co.?

Mr. BODMAN. No; I would not say that.

Mr. PECORA. What caused you to say in this statement:

It is unfortunate to have our associates learn of important situations indirectly. They are entitled to have these matters brought to their attention by the officers directly.

Mr. BODMAN. May I have that just a moment?

Mr. PECORA. Surely [handing papers to Mr. Bodman]. That is the next to the last paragraph on the first page.

Mr. BODMAN. I think I made that comment because I thought they were entitled to have those matters brought to their attention more specifically at the meetings.

Mr. PECORA. What matters did you have in mind? What were you alluding to specifically?

Mr. BODMAN. I think I had reference to the investment companies. When Mr. Morley came down, and Mr. Shorts also, and others, they would confer with Mr. Lord, and I have not any doubt that in those conferences they were advised, in a general way, as to the condition of these companies, but it seemed to me, as I expressed in this letter,

that a more formal report, a fuller report, should be made at the meetings themselves.

Mr. PECORA. As a matter of fact, during the years 1930 and 1931, as well as in 1932, these investment company units of the group showed big losses, did they not?

Mr. BODMAN. They showed great shrinkages, yes.

Mr. PECORA. No mention was made of those losses or shrinkages at the meetings of the executive committee or meetings of the board or directors?

Mr. BODMAN. I could not say that. I think their general condition was disclosed and discussed. I do not know that any statements were submitted.

Mr. PECORA. Was any reference made to those conditions of these investment company units in any of the annual reports to the stockholders issued by the Group Co.?

Mr. BODMAN. Yes; I think so.

Mr. PECORA. Will you call my attention to any you have been able to find?

Mr. BODMAN. I have not any reports here, but if you will show them to me, I will try to.

Mr. PECORA. I noticed before, when you were referring to examination of reports, you were reading from some manuscript, which apparently represented a report made to you by whatever person you delegated to the business of scanning the reports.

Mr. BODMAN. The memorandum that I have here is one that Mr. Lord prepared for me to explain the differences in these statements from year to year, but I know that in one of the reports—in fact, I think two of them—mention is made of the fact that large losses had occurred in the portfolios of the investment companies, and that \$7,500,000 had been borrowed in order to carry those until the return of those values to what were considered intrinsic values. I think you will find that in one of those reports.

Mr. PECORA. In the annual report to the stockholders of the Group Co. for the year 1930, under the caption "Securities Companies" the following appears. I am reading from the report marked in evidence as "Committee's Exhibit No. 36 of December 20, 1933" [reading]:

In a year such as 1930 the securities companies encounter problems that do not occur during years of normal business and market conditions. Since the drastic decline of October 1929, prices of securities, except for occasional brief instances, have gone considerably downward. Many thoroughly sound and high-grade securities are selling at figures below sound and reasonable prices. The Guardian Detroit Co. and Keane, Higbie & Co., in common with most securities companies and individual investors, have seen the market price of their inventory decline to a figure below values which should obtain under normal business conditions. This inventory might be divided into two general classes: First, securities which have been purchased for resale; second, securities which were purchased to give us a more or less permanent position, where we have a special interest, and which we expect to hold for institutional benefit, regardless of market fluctuations.

Most of the depreciation in inventory values has occurred in this latter class of investments. From the standpoint of operations, that is, the purchase and sale of securities, both of these companies during 1930 made an operating profit. Conforming to the most conservative practice of valuing inventory at cost or market, whichever is lowest, Keane, Higbie & Co. has set up, out of undivided profits, a special inventory reserve of \$2,000,000. In the case of Guardian Detroit Co., a special inventory reserve of \$4,500,000 has been

created by the transfer of \$2,900,000 from capital account and \$1,600,000 from undivided profits. These reserves do not represent actual losses, but are set up to bring the inventories to market prices prevailing as of December 31, 1930. The inventories consist of sound securities, and both companies are in a position to carry these inventories until the return of more normal conditions. Even a partial return to prices at which these same securities sold during 1930 would make these reserves unnecessary.

That is all that appears under the caption of "Securities companies." Is that the statement to which you refer?

Mr. BODMAN. That is one of them. I think there is one later, where reference is made to borrowing \$7,500,000 to carry them.

Mr. PECORA. In the annual report to the stockholders of the Group Co. for the year 1931 there is no discussion at all or no statement at all relating to the condition of the securities-company units of the group, under the caption of "Securities companies", such as we found in the 1930 report, and which I have just read to you; but in the 1931 report I find this paragraph embodied in the general report to the stockholders. I will read it to you [reading]:

For the year ended December 31, 1931, the net earnings of the banks and trust companies of the group, after all expenses of operation and after setting aside adequate reserves for taxes and depreciation of banking quarters and equipment, and before charge-offs, were \$3,887,052.86, or at the rate of \$2.51 per share on the 1,554,844 shares of the group stock, \$20 par value outstanding.

Then I find this paragraph in that same report [reading]:

The abnormal decline in securities prices during the past year has called for increased expenditures for investment analysis and caring for estates and trusts under the administration of our various units. These increased expenditures, while affecting adversely the net earnings received from these sources, have been amply justified by the results obtained.

This is the only reference I find in the annual report to the stockholders of the group company for the year 1931 to this \$7,500,000 item. I will read the entire paragraph in which the reference is made to that \$7,500,000. That is on page 9 of the printed annual report [reading]:

As a further step in the simplification of corporate structure, it is planned to consolidate the operations of our investment companies, and their present holdings will be reduced in an orderly manner, as proper opportunity offers. In order to effect economies in the management of their portfolios, this activity is being centered in the group company. In the regular course of business these companies had made loans with banks outside the group for the purpose of carrying their inventories of securities. All of these loans have been consolidated in a single loan of approximately \$7,500,000 made by the group company with banks outside the group. This arrangement permits carrying securities until quoted values are more nearly normal.

That is all I find about that. Is that what you have reference to?

Mr. BODMAN. That is the reference I have; yes, sir.

Mr. PECORA. Do you think that conveyed to the stockholders a complete and full picture of the situation of the group company?

Mr. BODMAN. The group company alone?

Mr. PECORA. Yes.

Mr. BODMAN. I think you will find in that report that the statement of operating losses of the affiliated institutions, other than banks and trust companies, contains the operating deficit of the Group Co., do you not?

Mr. PECORA. Can you refer me to the page?

Mr. BODMAN. No, I cannot; but I think if you will give me the report, I might.

Mr. PECORA. This is the report for 1931 for the Group Co., the report to the stockholders [handing document to Mr. Bodman].

Mr. BODMAN (reading).

The total operating losses of affiliated institutions other than banks and trust companies amounted to \$542,957.68, equal to 35 cents a share.

Mr. PECORA. The total what?

Mr. BODMAN (reading):

The total operating losses of affiliated institutions other than banks and trust companies amounted to \$542,957.68.

I do not know whether this is true or not, but I have been told that that included the operating deficit of the Group Co. itself.

Mr. PECORA. Who told you that?

Mr. BODMAN. Mr. Lord.

Mr. PECORA. When; recently?

Mr. BODMAN. Yes; when this question came up, I asked him what the difference in these reports was, and I think that is a fact, although I do not know that it is.

Mr. PECORA. In the report to the stockholders of the Group Co. for the year 1930, there is contained, under the caption of "Earnings" a statement referred to as the combined earnings and expenses of the various units of the group for the year 1930, and that combined statement of earnings and expenses of the various units of the group, which, I take it, includes all the units, non-banking as well as banking, shows a balance, by way of net addition to undivided profits, of \$922,833.73; but, as I look at this statement, I do not see that anyone could ascertain from it what losses, if any, were sustained by any of the units.

Mr. BODMAN. I am not sure I can either, Mr. Pecora, but I would like to look at the report. I am sure I cannot tell you. I am not familiar enough with it to answer that question.

Mr. PECORA. Can you recall what had happened prior to the date of your memorandum to Mr. Lord, which is in evidence here as exhibit no. 97, and which memorandum, I will remind you again, was written on August 27, 1931, which caused you to say in this memorandum [reading]:

I think that a statement of the affairs of Keane, Higbie & Co., and the Guardian Detroit Co., should also be reported on regularly. These are matters of concern to everybody in the group.

Mr. BODMAN. What is the question about that?

Mr. PECORA. What had happened which called forth that specific comment, or statement, by you, in this memorandum to Mr. Lord?

Mr. BODMAN. I thought we ought to have periodic and detailed statements, or more detailed statements of the condition of those two units.

Mr. PECORA. Those two units?

Mr. BODMAN. Keane, Higbie & Co., and Guardian Detroit; because, as I have undertaken to state, those were the units that had this large inventory of securities which were shrinking.

Mr. PECORA. You follow that up directly by saying as follows in this memorandum [reading]:

It is unfortunate to have our associates learn of important situations indirectly.

What did you have in mind when you wrote that?

Mr. BODMAN. I do not know, unless it was reference to talks between these directors, as they came down, and officers. I know that Mr. Morley and Mr. Shorts, and other heads of these out-State units would come in and talk with Mr. Lord personally about the general conditions. I do not know whether that is what I referred to or not.

Mr. PECORA. You apparently had in mind some incidents or circumstances that had been brought to your knowledge prior to the writing of this memorandum, and which informed you of the fact that important situations respecting Keane, Higbie & Co. and the Guardian Detroit Co. had been learned of by persons to whom you refer here as associates, in an indirect fashion. What did you mean by that?

Mr. BODMAN. I do not remember what I meant by that. I have no recollection about it at all, unless I had reference to such information as these people might pick up by talking to officers, and not at the board meeting.

Mr. PECORA. That is not a reference to anything which any of these gentlemen learned indirectly, is it?

Mr. BODMAN. It might have been, yes. I have no recollection of what that refers to.

Mr. PECORA. You said further in this memorandum [reading]: "I am certain we can improve the impression which these meetings create in the minds of those who attend".

What did you think was the kind of impression created at these meetings upon the minds of those who attended these meetings of the executive committee and the board of directors of the Group Co.?

Mr. BODMAN. The impression I have reference to was the impression that these figures were read off, and not more formally presented.

Mr. PECORA. Wasn't it something more than that?

Mr. BODMAN. Not that I recall; no.

Mr. PECORA. Wasn't it something more specific than that?

Mr. BODMAN. No; I don't think so.

Mr. PECORA. For instance, you refer further in this memorandum to the circumstances of the presiding officer at the meeting, or the executive officer of the company attending the meeting, when asked for specific information, being told that the figures are in the records and are available to anybody interested.

Mr. BODMAN. I remember that Mr. Morley did raise the question that you have referred to, and that the statement was made that all figures were available and that the books were open to inspection at any time, but I did not think that quite met the situation. I thought there should have been a more formal presentation of the circumstances.

Mr. PECORA. Mr. Bodman, you heard the testimony given before this committee yesterday with regard to certain transactions involving a sale of 30,000 shares of the capital stock of the Union Commerce Investment Co. to Goldman-Sachs?

Mr. BODMAN. I did.

Mr. PECORA. And the repurchase of 25,000 of those shares?

Mr. BODMAN. I did.

Mr. PECORA. And the disposition that was made of those 25,000 shares?

Mr. BODMAN. I did.

Mr. PECORA. Do you know anything about the facts and circumstances revolving about those situations or transactions?

Mr. BODMAN. I know just this. I knew nothing about the sale or the agreement that Mr. Blair had testified to, about the sale of Union Commerce stock to Goldman-Sachs. I knew nothing about the arrangement that was testified to by Mr. Higbie, as to his taking care of that commitment out of the shares of Union Commerce, that he was to get in exchange for Keane, Higbie & Co. I do remember that after the merger of the Union Commerce Corporation and the Guardian Detroit Group was proposed, and while it was in the course of consummation, a suggestion was made—and I think it came from Mr. Lord—that it would be inadvisable to have such a large holding of group stock held by a New York banking house. I knew nothing about the negotiations for the repurchase until the executive committee meeting, the minutes of which you read yesterday.

Mr. PECORA. You knew nothing about that?

Mr. BODMAN. Nothing about it.

Mr. PECORA. You knew nothing about the—let me ask it in a more direct form. Did you know nothing about the action taken at the special meeting of the stockholders on September 12, 1929?

Mr. BODMAN. What meeting is that?

Mr. PECORA. The meeting at which the stockholders—

Mr. BODMAN. Of what company?

Mr. PECORA. That was the Union Commerce.

Mr. BODMAN. I knew nothing about that at all. I will say this, Mr. Pecora: That on the 18th of October—I have forgotten the dates of these meetings you read, but on the 18th of October 1929 the stockholders of both the Union Commerce and the Guardian Detroit group had voted the approval of this merger.

Mr. PECORA. Yes.

Mr. BODMAN. And that it was contemplated in that merger that Keane, Higbie & Co. and the Guardian Detroit Co. would be—I cannot say whether they would be combined, but I understood that the Guardian Detroit Co. was to run the securities business. Meanwhile that repurchase, according to the testimony you heard yesterday and that I heard, had been negotiated, but I do not think there was any corporate action taken with reference to it prior to the date of the first meeting you referred to yesterday—certainly not to my knowledge.

Mr. PECORA. Were you connected in 1929 with the Guardian Detroit Co.?

Mr. BODMAN. Yes; I was a director of it.

Mr. PECORA. Do you recall anything about the action taken. I think it was on November 6, 1929, by the board of the Guardian Detroit Co. approving and ratifying that which its officers had done

in connection with participating jointly with Keane, Higbie & Co. with respect to a transaction involving 17,500 shares of Union Commerce Co. stock?

Mr. BODMAN. I attended that meeting, as the minutes show, and I remember just what those minutes show. In other words, the transaction had been consummated, and it was ratified at that meeting.

Mr. PECORA. Was a full report made of the transaction at that meeting before it was ratified by the board?

Mr. BODMAN. I do not know whether a full report was made. My recollection is that it was reported to that board that in connection with the merger it had been thought advisable to repurchase, or to get from Goldman-Sachs a large block of their stock, for the reason that I have already mentioned, and that the officers had consummated that arrangement; that the stock had been repurchased. By that time the stock had fallen in value—am I right about this? Is that the meeting where authority was given to sell to some of the directors?

Mr. PECORA. No; that was subsequent to November 6. I think it was on November 6, 1929, that this resolution ratifying the action of the officers in participating jointly with Keane, Higbie & Co. with respect to whatever they did in connection with the 17,500 share was ratified.

Mr. BODMAN. Yes; I remember just exactly what those minutes show.

Mr. PECORA. Do you recall the action taken by the board of the Guardian Detroit Co., in which it approved the transaction whereby the Guardian Detroit Co. purchased for \$184 a share those 17,500 shares?

Mr. BODMAN. I remember exactly what those minutes show. Otherwise I would have no recollection about it.

Mr. PECORA. The minutes do not go into any details at all of that transaction?

Mr. BODMAN. They do not.

Mr. PECORA. You have no recollection of any details?

Mr. BODMAN. I have no recollection except that it was reported that that stock had been repurchased at \$184 a share, and I think the statement was made that that was considerably under the then market.

Mr. PECORA. As a matter of fact, it was considerably over the market at that time, was it not—when this action was taken?

Mr. BODMAN. No. It was reported that when that stock was bought it had been bought under the market. It may have been over the market at the date of that meeting. I do not know. I know it was very much over it at a later date.

Mr. PECORA. You heard Mr. Higbie testify about the formation of a selling syndicate without commitment?

Mr. BODMAN. I heard him testify.

Mr. PECORA. Did you know anything about that?

Mr. BODMAN. I did not.

Mr. PECORA. The first you learned about it was when Mr. Higbie testified to it yesterday?

Mr. BODMAN. I would not say that. I have no recollection of it. I do know of the meeting that was held, as was testified to, at Dr.

Murphy's house, where, after this large block had been acquired by Guardian Detroit, and the price had fallen, certain directors were induced, or at least they did agree, to lift out, in order to relieve the Guardian Co., I think it was 18,000 shares of group stock, or something like that.

Mr. PECORA. 25,500 shares?

Mr. BODMAN. Well, it was that or any part of 20,500, but I think the amount actually purchased was somewhat less than that.

Mr. PECORA. Did you attend the conference at Dr. Murphy's house?

Mr. BODMAN. I don't think I did, but I heard of it afterwards.

Mr. PECORA. What did you say was the purpose of that action whereby the directors undertook individually to take over at \$180 a share up to 20,500 shares of the capital stock of the Union Commerce Co.?

Mr. BODMAN. The purpose of that action was to relieve the Guardian Trust Co. of such a heavy investment in group stock, and \$180 a share which the directors or certain directors agreed to purchase that stock at was very much in excess of the then market.

Mr. PECORA. Yes.

Mr. BODMAN. That was done as a remedial action. I have forgotten the exact amount of it, but it was over \$3,000,000 these directors put up of their own money.

Mr. PECORA. Edsel Ford, as I recall, subscribed to the extent of \$1,200,000 to that?

Mr. BODMAN. I think he did.

Mr. PECORA. Did you ever learn, either by attendance at any meeting of the executive committee of the board of any of these companies, Guardian Detroit Co., Keane, Higbie & Co., or the Group Co., that one of the reasons why that action was taken by those directors, which as you say, operated to relieve the Guardian Detroit Co. of a heavy loss which otherwise it would not have had to take—

Mr. BODMAN (interposing). It was a burden on them.

Mr. PECORA (continuing). Was because at the outset the transaction was one which had not been regularly undertaken by the Guardian Detroit Co.?

Mr. BODMAN. No; I never heard that. At least, I have no recollection of hearing that.

Mr. PECORA. And that this action was taken by the directors in order to still the voice of criticism about it?

Mr. BODMAN. I never heard that.

Mr. PECORA. Mr. Bodman, I want to refer again to the statement contained in the annual report to the stockholders of the Group Co. for the year 1931 and which will be read into the record as follows:

The total operating losses of affiliated institutions other than banks and trust companies amount to \$542,957.68, equal to 35 cents per share.

You did not intend to imply that you construed that statement as a reference to the only loss sustained by the affiliated institutions or units other than bank units during the year 1931?

Mr. BODMAN. I don't mean to imply anything about it, Mr. Pecora. I understand that that statement does include the operating deficit—it was not an operating deficit but it was a deficit after payment of dividends—of the Group Co. My authority for that, as I

told you, was what Mr. Lord told me. I think that figure does include the deficit for that year of the Group Co.

Mr. PECORA. And sole authority for that is what Mr. Lord told you?

Mr. BODMAN. That is what I understand.

Mr. PECORA. What I am asking you is, You did not regard this statement in the report as meaning that the only losses sustained by the nonbanking units of the Group Co. during the year 1931 are these operating losses aggregating five hundred and forty-two thousand and odd dollars.

Mr. BODMAN. No; I would not think—is that 1931?

Mr. PECORA. Yes, sir.

Mr. BODMAN. I would not think so. I think the depreciation of so-called "write-offs" would be in addition to that.

Mr. PECORA. And those write-offs or losses represented by depreciations in inventory values ran into the millions of dollars, did they not?

Mr. BODMAN. I would not undertake to answer that, Mr. Pecora. It was very large. There is no question about that.

Mr. PECORA. That is all, Mr. Bodman.

Senator COUZENS. Mr. Bodman, I would like to ask you to explain this: There is a curious matter that stands out in my mind, and that is that the repurchase agreement from Goldman-Sachs Co. was 25,000 shares. There appears no record in the minutes of any of the group companies or units with respect to that agreement until the amount was dropped to 17,500 shares. I am unable to fathom how it is that the 25,000 shares repurchase agreement does not appear in the record anywhere until 7,500 shares have been disposed of.

Mr. BODMAN. I cannot explain it.

Senator COUZENS. I wonder if there is any of your associates here who can explain it.

Mr. BODMAN. I don't know. You can ask them. But I don't know anything about it.

Senator COUZENS. Because, as the evidence appears before this committee now, there seems to have been a repurchase agreement without any corporate responsibility of any kind until 7,500 shares had been sold at a profit, and then when the loss occurs, the stock has dropped, the 17,500 shares is taken over by the group.

Mr. BODMAN. Well, I heard Mr. Higbie testify to it, and I am not able to give you any light on that subject at all. I think he said, however, that they had disposed of some 7,500 shares, did he not?

Senator COUZENS. Yes.

Mr. BODMAN. And some question of profit came in, and I heard him testify that until the account was closed you could not tell whether there was a profit or not. I do not know whether there was a profit or not.

Senator COUZENS. There is no record in the minutes anywhere that we can find that the corporation as such took any responsibility in the repurchase of these 25,000 shares or assumed any responsibility for losses, until after 7,500 shares had been disposed of at a profit, and then the market dropped, and then the corporation, according to the minutes, took over the 17,500 shares at a price greatly in excess of the market, thereby putting upon the group this enormous loss.

Mr. BODMAN. I cannot explain it, Senator.

Senator COUZENS. If there is anybody here among your associates who can explain it to the committee I think it might well be explained, because it has left a very bad taste in the minds of some of the committeemen at least, that that was a deliberate dumping upon the group of a syndicate operation when a loss appeared.

The CHAIRMAN. The profits on 7,500 shares went to this selling syndicate, not to the group. That was the profit. They did not estimate the total profits in the account until the account was closed, but as far as the 7,500 shares were concerned that profit went to the selling group.

Mr. BODMAN. Well, all I know about it, Senator Fletcher, is what I heard testified to here yesterday, and I understood from Mr. Higbie's testimony that the selling group was made up of Guardian Detroit Co., Keane, Higbie & Co., and Fisher & Co. Is that right?

Senator COUZENS. And Mr. Bitting of Fisher & Co.

Mr. BODMAN. I don't know whether it was Mr. Bitting representing Fisher & Co. or Bitting individually.

Mr. PECORA. Individually, I understood him.

Mr. BODMAN. I mean there were four.

Senator COUZENS. And Mr. Covington was to share in the profits.

Mr. BODMAN. Yes.

Senator COUZENS. But that does not appear in the records to have been done by any corporate action in connection with it at all. No corporate action seems to have appeared until the market had dropped and the 17,500 shares stood to stand a substantial loss.

Mr. PECORA. A loss of approximately \$55 or \$60 a share.

Mr. BODMAN. I cannot throw any light on it. I am sorry I cannot.

Senator COUZENS. If anybody can explain that, it would clear up the situation here very much.

Mr. PECORA. I sought to get all I could from Mr. Higbie yesterday on that. I have questioned Mr. Bodman about that, and he frankly acknowledges ignorance of the transaction.

Mr. BODMAN. I have no knowledge of it.

Senator COUZENS. May I ask Mr. Longley, who is in the audience, whether he remembers anything about this?

Mr. LONGLEY. No; that was sometime before my time.

Mr. PECORA. Is there any gentleman connected with any of these companies involved in the transaction that can throw further light on it?

(There was no response.)

Senator COUZENS. There appears to be no answer, so we will have to let the record stand as it is.

Mr. PECORA. That is all I have to ask you, Mr. Bodman. Is Colonel Walsh here?

Mr. WALSH. Yes.

TESTIMONY OF JAMES L. WALSH, DETROIT, MICH.

The CHAIRMAN. Mr. Walsh, you may be sworn.

You solemnly swear that the testimony you will give before this committee in the matters under investigation will be the truth, the whole truth and nothing but the truth. So help you God.

Mr. WALSH. I do.

Mr. PECORA. Your full name, address, and business or occupation, please.

Mr. WALSH. James L. Walsh; 8162 East Jefferson Avenue Detroit, Mich.; at present a vice president of the National Bank of Detroit.

Mr. PECORA. Were you at one time an officer or director of the Guardian Detroit Union Group, Inc.?

Mr. WALSH. Yes, sir.

Mr. PECORA. When did you first become connected with that company?

Mr. WALSH. With the Group Co.?

Mr. PECORA. Yes, sir.

Mr. WALSH. When it was formed, as a result of the changeover from Guardian Detroit Group to Guardian Detroit Union Group.

Mr. PECORA. That was in December 1929?

Mr. WALSH. Yes, sir.

Mr. PECORA. And what office did you hold if any in that group company at its inception in December 1929?

Mr. WALSH. I was a director; I was a member of the executive committee; I was one of the vice presidents not on salary, and I was chairman of the operating committee, sir.

Mr. PECORA. What were generally the duties of the operating committee, Mr. Walsh?

Mr. WALSH. I should say a general description would be mutual education to bring these officers who operated banks together and discuss their operating problems.

Mr. PECORA. Did you eventually become an executive vice president, so called, of this Group Co.?

Mr. WALSH. Yes, sir.

Mr. PECORA. On salary?

Mr. WALSH. Not at first on salary. I became nonsalaried executive vice president and later a salaried executive vice president.

Mr. PECORA. Did you continue to serve as a director of the Group Co. from December 1929 till the date when a receiver for it was appointed last year?

Mr. WALSH. Yes, sir.

Mr. PECORA. And were you during that entire period a member of the executive committee and of the operating committee as well as of the board?

Mr. WALSH. Yes, sir; of the executive committee, but I understand that the operating committee was combined with the executive committee at the end of the year 1932. I don't know that there was any formal action taken, but I believe that was the understanding.

Mr. PECORA. When did you become executive vice president of the Group Co. on a salary basis?

Mr. WALSH. On January 1 of 1932.

Senator COUZENS. At what salary?

Mr. WALSH. At, I think it was, \$25,000 a year.

Mr. PECORA. Were you also a stockholder of the Group Co.?

Mr. WALSH. Yes, sir.

Mr. PECORA. From its inception?

Mr. WALSH. I was a stockholder of Guardian Detroit Bank unified stock, which was converted eventually into Guardian Detroit Group

stock, which was then converted again to Guardian Detroit Union Group stock.

Mr. PECORA. Do you know how many shares of the capital stock of the Guardian Detroit Union Group, Inc., you owned at the end of the year 1929?

Mr. WALSH. At the end of 1929, I should say, for myself, and myself and family, about 4,800 shares; pretty close to it.

Mr. PECORA. Do you know how many you owned at the end of the year 1930?

Mr. WALSH. No, sir; I could not say off-hand.

Mr. PECORA. Do you recall having made a disposition during the year 1930—

Mr. WALSH. Yes, sir.

Mr. PECORA. By sale or otherwise of a very substantial portion of the holdings you had at the end of the preceding year?

Mr. WALSH. Yes, sir; that is right.

Senator COUZENS. How many shares?

Mr. WALSH. Well, sir, I could not tell you off-hand the number of shares, but I could tell you roughly—would you give me that date again, sir?

Senator COUZENS. At the end of the year 1930.

Mr. WALSH. Well, a substantial amount. I mean, I should say, perhaps 1,500 up to 2,000 shares.

Mr. PECORA. Well, now, Colonel Walsh, without taking time to go into the documentary evidence showing that—

Mr. WALSH. Yes, sir.

Mr. PECORA. Let me say that, according to data gathered by us, the number of shares that you owned or were in your name at the end of the year 1929 was 4,320; that during the year 1930 you acquired 385 additional shares, but during that year disposed of 3,050 shares, leaving you at the end of the year with 1,655 shares. Would that accord with your recollection?

Mr. WALSH. Well, I would not dispute those figures, sir. I sold a very substantial amount of stock during 1930.

Senator COUZENS. At a profit?

Mr. WALSH. No, sir. I might say that my sales of Guardian stock represented a loss to me and to my family of \$137,000, of which I took \$82,000 and my family took \$55,000.

Mr. PECORA. During the year 1931 do you recall having made a substantial disposition by sale of holdings of stock of the Group Co. that you had at the end of the year 1930?

Mr. WALSH. Yes, sir; I kept right on. I had to sell.

Mr. PECORA. Do you know how many shares you had at the beginning of the year 1932 after you had made such sale and disposition?

Mr. WALSH. No, sir; not offhand, but I will take your record for it.

Mr. PECORA. Our record indicates that you sold during the year 1931 all but 185 shares.

Mr. WALSH. During 1931? I don't think that is right, sir. I think there was some stock in nominees' names that I owned that would make it about 250 instead of 185. I remember I had 250 shares for quite a long time.

Mr. PECORA. These sales of your capital stock, that is, over 4,000 shares, which you owned at the end of the year 1929, and which sales

were made during the year 1930 and the year 1931—were they indicative of any feeling on your part at the time of the making of those sales that it was a good thing for you to get rid of the stock in view of declining values and a declining market?

Mr. WALSH. No. I think that everyone else felt that it would be some time before values got back to where they were in 1929, but I was very considerably in debt to banks, and practically without exception every bit of proceeds from the sale of that stock was used to reduce my bank indebtedness. Part of the proceeds, to the amount of about \$32,000, I did use to purchase United States Government bonds to present—not to present, but to give back—to my wife, who had owned an equivalent amount before we were married, or was given to her at the time of her marriage by relatives, which she had loaned to me when I first purchased my original 100 shares of Guardian Detroit Bank unified stock. I had to own them without hypothecation in order to qualify as a director, so that I had to put up bonds to borrow money to pay the money for that stock.

Mr. PECORA. Now, Colonel Walsh, were you present before this committee on those days when Mr. Robert O. Lord gave testimony here with respect to the practice or custom or policy, whichever you may want to call it, of the Group Co. of having its unit banks eliminate items of bills payable?

Mr. WALSH. Yes, sir.

Mr. PECORA. You recall that in substance Mr. Lord testified that the mechanics of the methods by which those items of bills payable were eliminated from the reports of condition made by the unit banks from time to time in response to the call of the Comptroller of the Currency for statement of condition—

Mr. WALSH. Yes, sir.

Mr. PECORA. Were attended to by you?

Mr. WALSH. Yes, sir.

Mr. PECORA. And you subscribed to the testimony he gave in that respect?

Mr. WALSH. Yes, sir. Those letters that you read from me I will state that Mr. Lord didn't know anything about, so far as I know.

Mr. PECORA. But you wrote all of them?

Mr. WALSH. I did; yes, sir. I wrote them and sent them myself.

Mr. PECORA. You have those letters in mind?

Mr. WALSH. Yes, sir.

Mr. PECORA. And their contents?

Mr. WALSH. Yes, sir.

Mr. PECORA. On whose suggestion was this policy adopted by the Group Co. and its banking units?

Mr. WALSH. Well, I couldn't really say as to that. I have searched my mind for it. I don't think anyone sat down and said here is a policy and that is what we are going to do.

It seemed to have been a gradual development in the mind of bankers that there was something to be concerned about in showing bills payable. I think that I have heard of a bank in New York that never borrowed of the Federal reserve bank. Of course, to my mind, I think it is a bad attitude for bankers to take, because to a certain extent you reduce the value of the Federal Reserve System. But I had heard that from the first time I ever went into the banking business.

Senator COUZENS. Do you think it was a wise policy?

Mr. WALSH. I do not; no, sir.

Senator COUZENS. Do you approve of the methods that were adopted by the group to eliminate bills payable from the units?

Mr. WALSH. Well, I did then, sir, and I am responsible for them, and at that time they seemed all right. I would not do that now, sir.

Mr. PECORA. Who devised that method that was resorted to?

Mr. WALSH. I don't really know.

Mr. PECORA. Did you?

Mr. WALSH. When I had excess funds in the Guardian Detroit Bank, not as an officer of the group but as an officer of the Guardian Detroit Bank. I would frequently call up officers in our State banks and ask them if they could use some funds. Now, that is without regard to call date at all.

Mr. PECORA. Can't you answer the question, which I will repeat: Who devised the method or methods that were adopted by the Group Co. and its bank units for the purpose of avoiding the showing of bills payable on their statements of the banks?

Mr. WALSH. Well, as to the development of it, eventually I did it.

Mr. PECORA. You did it?

Mr. WALSH. Yes, sir.

Mr. PECORA. Now, will you describe the various methods or devices that you caused to be adopted for that purpose?

Mr. WALSH. One of them was to ask these officers or operating heads of our State bank units to report their deposits and bills payable, and if I had any excess funds I would say, "Well, here: can you use \$200,000", or "Can you use so much?" and if they wanted it, why, send it out.

Mr. PECORA. Just describe in detail the process by which these bills payable items were eliminated by that means.

Mr. WALSH. We purchased a certificate of deposit in, we will say, the unit bank. That put them in funds. Then there is a separate transaction. When they were in funds, to wipe out their bills payable, that wiped out their bills payable.

Mr. PECORA. And then after the report was submitted which eliminated or which did not contain the items of bills payable that were intended to be wiped out and taken care of by this process, were those items of bills payable restored?

Mr. WALSH. Not always; no, sir.

Mr. PECORA. At various times?

Mr. WALSH. At times I think they were, but not always. In fact, some of them stayed for many months. At other times I had had inquiries from corporations who wanted to place funds and would call up and say, "Now, what is your rate on say \$200,000 or half a million for a period of 3 months, 6 months, 9 months", or whatever it would be, or on 30 days' notice, 60 days' notice, 90 days' notice?

The CHAIRMAN. Do you know whether that was common practice among banks?

Mr. WALSH. I could not answer for the banks. Senator. I really could not. We used to have inquiries quite often.

Senator COUZENS. Didn't that happen, Mr. Walsh, in a different way than that at times; not the units call up at times, instead of you calling them, and ask for deposits to relieve their bills payable?

Mr. WALSH. May I have that again, Senator?

Senator COUZENS. You testified that when you had surplus money—

Mr. WALSH. Yes, sir.

Senator COUZENS. You called up the units and asked them if they could use a deposit. Was not the situation reversed at times, and the units called up you and asked for money so that they could relieve their bills payable?

Mr. WALSH. I have no recollection of a particular situation, but I have no doubt that perhaps that did happen.

Senator COUZENS. Didn't it particularly happen with regard to the Union Industrial Bank at Flint.

Mr. WALSH. I cannot say whether that started on which end, but I would not make a statement that it did not, sir. I would rather want to say that they did call up, rather than they did not.

Mr. PECORA. Now, as possibly refreshing your recollection about the Union Industrial Bank at Flint and the methods adopted to enable that bank to take out bills payable items from its report, let me show you committee's exhibit no. 48, as of December 21, 1933, which is a photostatic reproduction of a certificate of deposit for \$600,000 in favor of the Guardian Detroit Bank. Will you look at it?

Mr. WALSH. Yes, sir.

Mr. PECORA. And see if that refreshes your recollection with regard to the particular matter that Senator Couzens has just questioned you about. Look also at the endorsement on the back of that.

Mr. WALSH. Yes, sir. You asked whether that transaction initiated in Flint or in Detroit? Is that the substance of the question, Senator?

Senator COUZENS. No: I asked you if the situation was not reversed, that at times your units called up and asked for deposits to relieve them of bills payable, rather than being initiated by you asking them to accept deposits. I asked you the general question, and then I asked you afterwards whether or not it was not reversed in some cases with respect to the Union Industrial of Flint.

Mr. WALSH. I think that was so. I believe I answered that, sir.

Mr. PECORA. Is that exhibit which you have in your hand, which I have passed on to you, evidence of one of those transactions?

Mr. WALSH. I should say so; yes, sir.

Mr. PECORA. Do you recall the particular transaction, Colonel Walsh?

Mr. WALSH. At the end of 1931 I believe that they were in bills payable about a million eight hundred thousand dollars, according to my recollection.

Mr. PECORA. Yes.

Mr. WALSH. And they received funds either from the Highland Park State Bank or some other bank to the amount of around six hundred thousand, which were deposited in Guardian Detroit Bank to their credit. Then there was a million two hundred thousand dollars put in certificate of deposit with the Flint bank.

Mr. PECORA. Yes. What did that result in?

Mr. WALSH. That resulted in their being put in sufficient funds to take them out of bills payable.

Mr. PECORA. And it enabled them to report "No bills payable"?

Mr. WALSH. Yes, sir.

Mr. PECORA. As of December 31, 1931?

Mr. WALSH. That is right, yes, sir.

Mr. PECORA. Whereas they actually owed on account of those bills payable a million eight hundred thousand dollars?

Mr. WALSH. Well, they would have if they—

Mr. PECORA (interposing). They would have if this had not been done to eliminate that item?

Mr. WALSH. That is quite right; yes, sir.

Mr. PECORA. According to the endorsement on the back of this exhibit no. 48, which reads "This C.D. withdrawn January 2, 1932, and we credit Guardian Detroit Bank", the bills payable item was restored at least to the extent of this \$600,000 represented by this certificate of deposit 2 days after the certificate of deposit was purchased, wasn't it?

Mr. WALSH. Well, I believe so, from that; yes, sir.

Mr. PECORA. That is what this exhibit indicates to you?

Mr. WALSH. Yes, sir; that is what it does.

Senator COUZENS. Where did they owe these bills payable?

Mr. WALSH. I am not sure, but I think they were at Guardian Detroit Bank. In most of the cases they were at the Federal Reserve banks or other correspondent banks, but in this particular case I think it was Guardian Detroit Bank.

Senator COUZENS. That is the whole million eight hundred thousand?

Mr. WALSH. I believe so; yes, sir.

Senator COUZENS. How did the Highland Park State Bank get into it: through instructions from you?

Mr. WALSH. No, sir.

Senator COUZENS. How did they become involved in this transfer of deposits to the Industrial Bank of Flint to enable them to wipe out their bills payable?

Mr. WALSH. Well, I think that they had some excess funds and placed them there for a few days—\$600,000.

Senator COUZENS. You don't know anything about the transaction?

Mr. WALSH. I know that about it; yes, sir. In fact, I think that I sat in the board meeting where Mr. Maurice proposed that, but I am not sure whether it was that 600,000 or some other transaction. That is my recollection.

Senator COUZENS. How long did the Highland Park State Bank deposit stay in the Industrial Bank of Flint?

Mr. WALSH. I could not answer that, sir.

Mr. PECORA. Were you assisted in any way in this so-called "window-dressing" process by Mr. Patterson, one of the other executive vice presidents of the Group Co.?

Mr. WALSH. He might have done something independently, but he didn't assist me in it; no, sir.

Mr. PECORA. I have before me what purports to be a photostatic copy of a so-called "intra-group memorandum" addressed to Mr. E. H. Shepherd, vice president, First National Bank & Trust Co. of Kalamazoo, from Mr. B. K. Patterson, vice president of the

Group Co., dated April 11, 1931. I will read it to you. It is on the letterhead of the Guardian Detroit Union Group, Inc. [reading]:

I have noted your letter of April 10 to Mr. Goddard, in which you explain the recent acquisition of \$5,000 in bonds of the King Paper Co., which you have taken from the State bank at Schoolcraft as an accommodation to them. In addition to making our investigations unnecessary here and there, I think the State bank at Schoolcraft or anyone else needing funds could be accommodated in a much better way. In this instance it would have been much better to have loaned the State bank the sum of money which they needed on their own note, instead of taking the bonds into your portfolio and issuing your certificate of deposit against them.

I know that the State banks are prone to do these things in order not to show bills payable on their own books. That, however, is their own affair, and to my mind nothing but an evasion, and I would not want to be a party to such an arrangement in accommodating them. I realize, of course, the desirability of any bank publishing statement not showing a bills payable account in these times, but nevertheless, the arrangement you followed has in the past proved undesirable.

Mr. PECORA. Do you know anything about the arrangement referred to in this memorandum?

Mr. WALSH. No, sir.

Mr. PECORA. Do you know anything about the particular transaction referred to in this memorandum?

Mr. WALSH. I do not recall anything about it.

Mr. PECORA. You knew Mr. Sheppard, the vice president of the Bank of Kalamazoo, to which this memorandum is addressed?

Mr. WALSH. Yes, sir.

Mr. PECORA. Did you ever discuss this process of evading or of avoiding a showing of bills payable, with Mr. Sheppard?

Mr. WALSH. I might have.

Mr. PECORA. Did he ever protest against it?

Mr. WALSH. Not to my recollection.

Mr. PECORA. Did any bank officers, I mean, officers of the various unit banks of the group, protest at any time against this window-dressing process being employed?

Mr. WALSH. Not to my recollection.

Mr. PECORA. They all fell in line with the idea?

Mr. WALSH. Well, you say fell in line with the idea; I think they were all in favor of it. I never heard any objections to it.

Senator COUZENS. Would you interpret that as an evasion, the same as that letter would indicate?

Mr. WALSH. I would now; yes, sir. I did not think so then, as I have said, with conditions as they were. Those conditions started with the Credit Anstadt failure, and then there was one thing after another; and Government bonds put out on September 15 began to drop, and the whole banking fraternity were considerably worried. I thought that was a good thing to do then. But I wouldn't do it now.

Mr. PECORA. You now think they are evasions?

Mr. WALSH. I do not think they are evasions; no, sir. I think they are probably unwise from the viewpoint of the public reaction to them as I have seen it develop right here.

Mr. PECORA. Do you think it amounted to a misrepresentation?

Mr. WALSH. No, sir; I do not.

Senator COUZENS. Then why were they bad, if not an evasion or misrepresentation?

Mr. WALSH. Because I can sense from the reaction to the first account in the press that the public did not like that way of doing business.

Mr. PECORA. Well, do you think they should be avoided because you have very recently learned about the public reaction to these things?

Mr. WALSH. Well, I will say that I would certainly not be a party to that sort of thing.

Mr. PECORA. What has brought about that change of view on your part?

Mr. WALSH. Just by these hearings held right here.

Senator COUZENS. Well, then, you feel that these hearings are justified, do you?

Mr. WALSH. What was that?

Senator COUZENS. I say you then feel that these hearings are justified, do you?

Mr. WALSH. I certainly do, Senator Couzens. I have been glad to be able to be here and to have heard what was said. And I have learned a lot by being here—although I do not know whether that has done any good.

Senator COUZENS. What have you been impressed by?

Mr. WALSH. I have learned to go right down the middle of the road.

Senator COUZENS. And just what do you mean by that?

Mr. WALSH. To avoid anything that savors of the twilight zone or anything that might be unethical, or that might be misinterpreted or misunderstood by the public.

Senator COUZENS. Or that might be deceptive?

Mr. WALSH. Yes; I would say so.

Senator COUZENS. Why wasn't this brought out in the Detroit grand-jury hearings?

Mr. WALSH. I do not know. I did not attend them.

Mr. PECORA. Did you testify there?

Mr. WALSH. No, sir; I did not.

Mr. PECORA. You knew of the testimony that was being taken in those proceedings, didn't you?

Mr. WALSH. Yes.

Mr. PECORA. Weren't you in Detroit during the time those proceedings were pending?

Mr. WALSH. The whole time; yes, sir.

Mr. PECORA. Did you ever offer to testify?

Mr. WALSH. I did not offer to testify.

Mr. PECORA. Or did you volunteer to testify?

Mr. WALSH. No, sir.

Senator COUZENS. You spoke a while ago of carrying some of your shares in the names of nominees.

Mr. WALSH. Yes, sir.

Senator COUZENS. Why was that done?

Mr. WALSH. When I was cleaning up my indebtedness Mr. D. J. Allison, of Allison & Co., called me up and said there was a lot of stock in my name that had come out of New York that was being sold out by the banks.

Senator COUZENS. And was that true?

Mr. WALSH. Well, it was coming out, not necessarily being sold out by the banks. I always told them to keep my loans in order and properly collateralized, and they were always properly collateralized. He asked me if I wouldn't have my stock at any forced sale transferred in the name of a nominee.

Senator COUZENS. And you transferred it in the name of a nominee so that persons wouldn't know that you were selling your stocks, was that it?

Mr. WALSH. That was the essential result; yes, sir.

Mr. PECORA. Now, Colonel Walsh, do you now regard that the purchase, so called, of these certificates of deposit, resorted to in order to enable the unit banks to eliminate from their reports these bills payable items, was actually a bona fide purchase?

Mr. WALSH. Yes, sir; I did.

Mr. PECORA. Weren't they merely expedites resorted to for a few days in some instances?

Mr. WALSH. No, sir. I do not think that is true, because funds sometimes remained there for considerable periods.

Mr. PECORA. But where funds represented by certificates of deposit were withdrawn within a day or two after the making of a report, eliminating the bills payable item, wouldn't you say that the purchase of certificates of deposit was not made in good faith but was merely an expedient?

Mr. WALSH. I think you could say they were an expedient, but I wouldn't say they were not made in good faith. I think they were made for the greatest good to the greatest number, so to speak.

Mr. PECORA. Did you ever seek any advice, legal or otherwise, from anybody as to the legality of that process and of those operations?

Mr. WALSH. No, sir.

Mr. PECORA. Now, the purchase of those certificates of deposit was, in effect, a borrowing transaction, wasn't it, when resorted to for that purpose?

Mr. WALSH. Well, in the sense that any deposit is borrowed from a depositor. Banks are the greatest borrowers in the world. Every cent they have is either borrowed from a depositor or from the Federal Reserve bank.

Mr. PECORA. Confining yourself to the transactions in the matter of these certificates of deposit in order to eliminate items from reports of banks, weren't they in substance borrowing transactions?

Mr. WALSH. Well, as I say, they were borrowing transactions in the sense that every deposit is a borrowing transaction.

Mr. PECORA. Weren't the sale of these c.d.'s borrowing transactions in these cases, in substance?

Mr. WALSH. No; I would say it was a deposit.

Mr. PECORA. Well, was it a means by which a bank that wanted to eliminate baila payable, was put in possession of funds to enable it to do that?

Mr. WALSH. Yes, sir. But that would, of course, happen with any other deposit.

Mr. PECORA. To that extent weren't these transactions borrowing transactions?

Mr. WALSH. I don't think they were; no, sir; except as I say any deposit is a borrowing transaction. It is an unsecured borrowing from a depositor.

Mr. PECORA. Were you familiar with this provision of the banking laws of the State of Michigan, contained in section 11932 of the laws relating to banking:

It shall be unlawful for any bank to issue its certificate of deposit for the purpose of borrowing money.

Mr. WALSH. I was not at that time, as you have read it now, but I should have been.

Mr. PECORA. I think I am through with Colonel Walsh, Mr. Chairman.

Senator COUZENS. May I ask one more question?

Mr. WALSH. Yes, sir.

Senator COUZENS. Did you ever in conversation or in writing with any of the unit banks suggest that the Guardian National Bank of Commerce or the Guardian Detroit Bank would put in a deposit to enable them to eliminate their bills payable?

Mr. WALSH. I might have, but I don't remember any particular occasion.

Senator COUZENS. I am not asking whether you remember any particular occasion, but did you ever do it?

Mr. WALSH. Well, I don't remember any time that I have done it, but I might have.

Senator COUZENS. You think you might have done it, but you don't remember any specific instance; is that it?

Mr. WALSH. No, sir.

Senator COUZENS. But you don't recall whether you ever did it at all or not?

Mr. WALSH. I don't recall any such instance; no, sir.

Senator COUZENS. All right.

Mr. PECORA. I have no further questions to propound to Colonel Walsh.

The CHAIRMAN. That is all, Colonel Walsh. You are excused.

Mr. WALSH. Do you say I am excused?

The CHAIRMAN. Yes.

(Thereupon the witness was excused.)

Mr. PECORA. Is Mr. Wilkin here?

Mr. WILKIN. Yes, sir.

The CHAIRMAN. Please come forward to the committee table, stand, hold up your right hand, and be sworn: You solemnly swear that you will tell the truth, the whole truth, and nothing but the truth, regarding the matters now under investigation by the committee. So help you God.

Mr. WILKIN. I do.

TESTIMONY OF HERBERT R. WILKIN, DETROIT, MICH.

The CHAIRMAN. Please state your name, place of residence, and business.

Mr. WILKIN. My name is Herbert R. Wilkin, 9120 East Jefferson Avenue, Detroit, Mich. I am, I suppose, a bank liquidator.

Mr. PECORA. Mr. Wilkin, what is at present your business or occupation?

Mr. WILKIN. I beg pardon, Mr. Pecora?

Mr. PECORA. What is at the present time your business or occupation?

Mr. WILKIN. I am liquidating the Highland Park State Bank and am also employed by Governor Groesbeck, the receiver for the Guardian Detroit Union Group.

Mr. PECORA. You are employed by him as such receiver in what capacity and to do what kind of work?

Mr. WILKIN. Liquidating those companies that have been spoken about here, as to securities and investments.

The CHAIRMAN. Would you call it the work of a conservator?

Mr. WILKIN. No; he is the receiver.

Mr. PECORA. He has employed you to assist him in the work of liquidation?

Mr. WILKIN. Yes, sir.

Mr. PECORA. Prior to the receivership of the Group Co., were you connected with the Group Co. as an officer, director, or otherwise?

Mr. WILKIN. Yes, sir. I was executive vice president of the Guardian Detroit Union Group.

Mr. PECORA. Were you a director of it?

Mr. WILKIN. Yes, sir.

Mr. PECORA. When did you first become a director of it?

Mr. WILKIN. I think in 1931.

Mr. PECORA. Do you remember what month?

Mr. WILKIN. It was around September.

Mr. PECORA. Were you also a member of any committee of the board of that bank, or of the group, rather?

Mr. WILKIN. Yes, sir; I was a member of—well, I beg pardon, it was in 1930 that I was elected a director, and in 1931 I became a member of the executive committee.

Mr. PECORA. At the time you became a director in 1930, or I mean after that time, did you continue to serve as a director until the receivership was ordered?

Mr. WILKIN. Yes, sir.

Mr. PECORA. And also from the time when you became a member of the executive committee of the board of the group, did you continue to serve as a member of the executive committee until the company was placed in receivership?

Mr. WILKIN. Yes, sir; I did.

Mr. PECORA. Were you also connected in any capacity with any banking unit of the group?

Mr. WILKIN. Latterly I was connected with the Union Guardian Trust Co.

Mr. PECORA. In what capacity?

Mr. WILKIN. As a vice president.

Mr. PECORA. From that time on until when?

Mr. WILKIN. I believe I was elected a vice president in October of 1932 and I continued until the bank holiday.

Mr. PECORA. Were you also an officer or director of any other banking unit of the group?

Mr. WILKIN. I was a director of the First National Bank of Kalamazoo and also of the City National Bank of Battle Creek.

Mr. PECORA. You heard the testimony Colonel Walsh gave here in the last half hour, did you?

Mr. WILKIN. Yes, sir.

Mr. PECORA. You heard the testimony he gave concerning the process by which the Union Industrial Trust & Savings Bank of Flint, which was one of the unit banks of the group, wiped out bills payable amounting to \$1,800,000 as of December 31, 1931, did you?

Mr. WILKIN. I did; yes, sir.

Mr. PECORA. Do you know anything about that transaction?

Mr. WILKIN. I know all about it.

Mr. PECORA. Tell us all about it then.

Mr. WILKIN. Well, we were called—that is, our bank was called, on the phone, and I was the operating head of the Union Industrial Bank at that time. Our funds were transferred by telephone from Detroit. We were called and told there was a credit of \$600,000 placed in our account, or that it would be placed in our account, at the Guardian—

Mr. PECORA (interposing). Who told you that?

Mr. WILKIN. I cannot say, but it was a call in the regular course of business. So we reduced our bills payable by \$600,000 with this money upon our books. Well, then, when we got the statement of the bank on the day after the first of January, this \$600,000 deposit had not gone to our credit. So I immediately tried to get in touch with Patterson, who was the vice president of the group, and the one they told me had arranged this credit. That was at the time that the National Bank of Commerce and the Guardian Detroit Bank consolidated, over that year end. But I could not get Patterson. So I got a fellow by the name of—well, he was a vice president anyway, in charge of the bank's accounts there. So later on in the day he called me and told me that due to the press of the consolidation they had not got this credit through, and to just cancel that transaction. So that is the story about the \$600,000.

Mr. PECORA. Well, what was the rest of the story, about the \$1,800,000 bills payable that were taken up at that time?

Mr. WILKINS. Oh, no, Mr. Pecora. Bills payable were not eliminated at all at that time. They still showed 1½ million dollars bills payable after that entry.

Mr. PECORA. I show you photostatic reproductions of certain documents, four in number. Will you look at them and tell us if they relate to this transaction, involving this certificate of deposit of \$600,000 you have just alluded to?

Mr. WILKIN. All right.

Mr. PECORA. I am handing them to you to look at.

Mr. WILKIN (after looking at the papers). I would say they did, Mr. Pecora, although it is not my writing.

Mr. PECORA. What did you say?

Mr. WILKIN. It is not my writing, but I would say that is correct.

Mr. PECORA. Will you just keep them for a moment as I want to refer to them.

Mr. WILKIN. All right.

Mr. PECORA. Of what records or documents are these photostatic reproductions?

Mr. WILKIN. They are reproductions of items in the files of the Union Industrial Bank at Flint.

The CHAIRMAN. What kind of items? Certificates of deposit and so on?

Mr. WILKIN. No, sir. These are debit and credit slips.

Mr. PECORA. All four of them?

Mr. WILKIN. Yes, sir.

Mr. PECORA. Mr. Chairman, I offer them in evidence, and ask they may be marked by consecutive numbers as separate exhibits.

The CHAIRMAN. Let them be admitted and made a part of the record.

(The four photostats were marked as follows: "Committee Exhibit No. 98, Jan. 19, 1934"; "Committee Exhibit No. 99, Jan. 19, 1934"; "Committee Exhibit No. 100, Jan. 19, 1934"; "Committee Exhibit No. 101, Jan. 19, 1934" and are as follows:)

COMMITTEE EXHIBIT No. 98, JANUARY 19, 1934

UNION INDUSTRIAL TRUST AND SAVINGS BANK,
Flint, Michigan, Date December 31, 1931.

Debit Guardian Detroit Bank. In payment of C.D. issued today, \$600,000.00.

COMMITTEE EXHIBIT No. 99, JANUARY 19, 1934

UNION INDUSTRIAL TRUST AND SAVINGS BANK,
Flint, Michigan, Date December 31, 1931.

Credit Demand Crdt. Written, \$600,000.00.

COMMITTEE EXHIBIT No. 100, JANUARY 19, 1934

Date December 31, 1931.

Debit bills payable. Partial payment to Guardian Detroit Bank to apply on our notes, \$600,000.00.

COMMITTEE EXHIBIT No. 101, JANUARY 17, 1934,

UNION INDUSTRIAL TRUST AND SAVINGS BANK,
Flint, Michigan, Date, December 31, 1931.

Credit Guardian Detroit Bank Applied on our note, \$60,000.00.

Mr. WILKIN. Mr. Pecora, I might say, or I should like to say, that I have a memorandum here that I procured from the Guardian Bank, which is in the files of the Industrial Bank, in the Guardian.

Mr. PECORA. Will you show it to me?

Mr. WILKIN. Yes, sir.

Mr. PECORA. Mr. Wilkin, the memorandum you have produced was made by whom?

Mr. WILKIN. Jacobs was his name.

Mr. PECORA. W. P. Jacobs?

Mr. WILKIN. Yes, sir.

Mr. PECORA. Who was he?

Mr. WILKIN. He was the vice president in charge of banks and bankers matters in the National Bank of Commerce.

Mr. PECORA. When did this memorandum come into your possession?

Mr. WILKIN. I would say 60 days ago.

Mr. PECORA. And it came into your possession by virtue of your employment by Governor Groesbeck as receiver of the group?

Mr. WILKIN. No, sir; it did not.

Mr. PECORA. How did it come into your possession?

Mr. WILKIN. My secretary received it from one of the office boys of the Guardian.

Mr. PECORA. Of the Guardian National Bank of Commerce?

Mr. WILKIN. Yes, sir.

Senator COUZENS. How did the office boy get it?

Mr. WILKIN. I suppose he copied it out of the files.

Mr. PECORA. He did not do that of his own initiative, did he?

Mr. WILKIN. Well, he did not do it on mine.

Mr. PECORA. Do you know how he came to do it?

Mr. WILKIN. No, sir; I do not, unless my secretary asked him to do it. That was a—

Mr. PECORA (interposing). Can you suggest any reason why your secretary should have asked this office boy to do that?

Mr. WILKIN. Yes; I can.

Mr. PECORA. Give it to me.

Mr. WILKIN. There was some discussion about this item in Flint. They had a grand jury investigation—

Mr. PECORA (interposing). Who took part in that discussion?

Mr. WILKIN. I don't know, apart from one person.

Mr. PECORA. And who was that?

Mr. WILKIN. It was Strassler, the fellow who initialed these debit slips here. So I was out of town when this happened, and he went up there and came back and told my secretary what had happened at that investigation, and—

Mr. PECORA (interposing). What investigation do you mean, now?

Mr. WILKIN. The investigation in Flint. They had investigated, apparently, this bank at Flint, with this 1-man grand jury.

Mr. PECORA. Who made that investigation?

Mr. WILKIN. I think it was Judge Black. Now, I am not certain about that. I never was called.

Mr. PECORA. Go ahead and complete your answer.

Mr. WILKIN. So he returned, and I was out of town, and he told my secretary what he had been questioned about up there. He is the young fellow that I took to Flint with me when I went up there after that big defalcation in that bank. He came back and reported what they had asked him, reported to my secretary. And she was formerly Covington's secretary in the Guardian National Bank. At any rate, she knew or found out that there was such a memorandum in the files of the Guardian.

Mr. PECORA. By "she" do you mean your secretary?

Mr. WILKIN. Yes, sir.

Mr. PECORA. Go ahead.

Mr. WILKIN. And she asked this young fellow, whom she knew and whom I didn't know, to get this copy of it for her. And she turned it over to me.

Senator COUZENS. Was he working in the bank?

Mr. WILKIN. I don't know, Senator Couzens. I imagine he must have been in order to get this.

Mr. PECORA. Will you tell the committee the substance of what your secretary told you? I mean about how she had learned about the discussion that you have referred to, and about the investigation.

Mr. WILKIN. Well, she told me that while I was gone the deputy sheriff came down and took Strassler out of the Trust Co. and back to Flint to appear before the investigation.

Senator COUZENS. Do you mean the grand jury investigation?

Mr. WILKIN. Yes, sir.

Senator COUZENS. Was that a grand jury investigation or some other kind of investigation?

Mr. WILKIN. I don't know.

Mr. PECORA. You are not referring to the 1-man grand jury investigation held in Detroit, are you?

Mr. WILKIN. No, sir.

Mr. PECORA. You are referring to a grand jury investigation held over in Flint?

Mr. WILKIN. Yes.

Senator COUZENS. Do you mean to say to me that you don't know whether that grand jury proceeding was open or closed?

Mr. WILKIN. I don't know; no, sir.

Mr. PECORA. Go ahead and complete your statement of what your secretary told you about the matter.

Mr. WILKIN. Well, she wanted to see, or she asked this boy to look at, the files over in the bank, to see if there was anything there concerning this matter. And he apparently got this out of the files and gave it to her. That is all I know about it.

Senator COUZENS. That isn't the original, is it?

Mr. WILKIN. No, sir; that is a copy.

Mr. PECORA. I am going to offer in evidence the document produced by the witness, which is a copy of what this office boy gave your secretary; is that it?

Mr. WILKIN. Yes, sir.

Mr. PECORA. Mr. Chairman, I offer it.

The CHAIRMAN. Let it be admitted, and made a part of the record.

(The memorandum dated Jan. 3, 1932, was marked "Committee Exhibit No. 102, Jan. 19, 1934, and will be found immediately following where read by Mr. Pecora.)

Mr. PECORA. The memorandum, which is typewritten and unsigned, reads as follows:

W.P.J.

JANUARY 3, 1932.

Mr. H. R. Wilkin telephoned today regarding a deposit of \$600,000 which we were supposed to make with him over the year-end in the form of a certificate of deposit. I discussed the matter with Mr. B. K. Patterson of the Guardian Detroit Union Group, Inc., and it seems that due to the confusion incidental to the consolidating of the Guardian Detroit Bank and the National Bank of Commerce, the instructions which he forwarded to us were mislaid. Due, however, to the fact that it was to be a transaction of a few days' duration it was decided that, rather than going to the trouble of making out a certificate of deposit and adjusting the entries on our books, the transaction would be better concluded by the Union Industrial Trust & Savings Bank of Flint making the necessary entries on their books.

Now, Mr. Wilkin, does this memorandum, which you say was prepared by Mr. Jacobs, and whose initials are "W. P. J." confirm, according to your recollection of the telephone conversation alluded to therein, and to which you were a participant?

Mr. WILKIN. Yes, sir.

Mr. PECORA. What did you understand was meant by this reference to this committee exhibit no. 102:

Due, however, to the fact that it was to be a transaction of a few days' duration.

Mr. WILKIN. That is not my language.

Mr. PECORA. I know that. But what do you understand it refers to?

Mr. WILKIN. Apparently that it was just short-time money that I had.

Mr. PECORA. That referred to the \$600,000 certificate of deposit, a copy of which has heretofore been received in evidence and marked "Committee Exhibit No. 48", December 21, 1933, which exhibit you have already seen.

Mr. WILKIN. Yes, sir.

Mr. PECORA. Why was that to be a transaction of a few days' duration?

Mr. WILKIN. I could not explain that.

Mr. PECORA. You know nothing about it?

Mr. WILKIN. No, sir. I knew that we were to get the deposit. It came unsolicited.

Mr. PECORA. How did you know you were to get the deposit?

Mr. WILKIN. Because we were called on the phone, like was the usual custom.

Mr. PECORA. What were you to do with the deposit?

Mr. WILKIN. We were to do just what we would do with any deposit. We reduced our bills payable by that amount.

Mr. PECORA. By the amount of \$600,000?

Mr. WILKIN. Yes, sir.

Mr. PECORA. Was a statement of condition of the Union Industrial Bank of Flint made as of December 31, 1931?

Mr. WILKIN. It would have to be; yes, sir.

Mr. PECORA. Was it in that statement that the bills payable item was reduced by \$600,000 as a result of this transaction?

Mr. WILKIN. I would think it would be; yes.

Mr. PECORA. Do you recall who signed that statement of condition or report?

Mr. WILKIN. I do not, but I think I signed most of the statements of condition. That is a routine matter.

Mr. PECORA. Do you recall having signed that particular one?

Mr. WILKIN. No, sir; I do not.

Mr. PECORA. You recall, however, the statement, do you not, that the item of "Bills payable" was reduced by \$600,000 as the result of this process?

Mr. WILKIN. No; I may recall it by seeing the—

Mr. PECORA. The exhibit?

Mr. WILKIN. Yes.

Mr. PECORA. Having your recollection so refreshed, do you now recall the whole transaction?

Mr. WILKIN. Yes, sir—no, sir; I don't recall the whole transaction. I know that these are our vouchers back of that. They are genuine.

Mr. PECORA. I am going to show you again the exhibits that have been received in evidence here as committee exhibits 98, 99, 100.

and 101, respectively, as of this date. Two of them appear to be debit slips and two of them appear to be credit slips. Will you look at them and tell this committee for the record just what the effect and meaning and significance was of these four exhibits?

Mr. WILKIN. The first that I see is a charge ticket, charging the Guardian Detroit Bank with \$600,000.

The second is a charge ticket to bills payable, charging \$600,000.

The next is a credit ticket, crediting the demand certificates of deposit with \$600,000.

This [indicating] is a credit ticket, crediting the Guardian Detroit Bank with \$600,000.

Mr. PECORA. I show you what purports to be a photostatic reproduction of the report of condition of the Union Industrial Trust & Savings Bank of Flint as of December 31, 1931, and it bears upon its face a signature reading "H. R. Wilkin." Will you look at it and tell me if you recognize the handwriting of that signature as being your handwriting?

Mr. WILKIN. Yes, sir; that is mine.

Mr. PECORA. Look at it more closely and tell us if you recognize the entire document as being a true and correct copy of the report of condition of that bank as of December 31, 1931, signed by you.

Mr. WILKIN. I would say it was; yes, sir.

Mr. PECORA. Does that refresh your recollection that you signed this particular report?

Mr. WILKIN. No, sir; I signed hundreds of reports.

Mr. PECORA. Looking at that document which you have just identified as a true and correct copy of the report and which contains the signature of H. R. Wilkin, which you say is in your handwriting, does that not serve to refresh your recollection as to the fact that you signed the original of that particular report?

Mr. WILKIN. I signed this report; yes, sir.

Mr. PECORA. I offer that copy of it in evidence.

Senator COUZENS. The same may be admitted.

(Photostatic copy of report of condition of Union Industrial Savings & Trust Co., Flint, Mich., of Dec. 31, 1931, was marked for identification, "Committee Exhibit No. 103, Jan. 19, 1934.")

Senator COUZENS. What is the name of the secretary that appeared before the grand jury?

Mr. WILKIN. It was Strassler that appeared before the grand jury.

Senator COUZENS. Your secretary did not appear before it?

Mr. WILKIN. No, sir.

Senator COUZENS. And that is the man whom you have just mentioned who told you the questions he had been asked by the grand jury?

Mr. WILKIN. He told her. He has told me since, but he told her at that time.

Senator COUZENS. So he did tell you at some time the questions he had been asked by the grand jury?

Mr. WILKIN. Yes.

Senator COUZENS. Did he tell you his answers?

Mr. WILKIN. I don't remember that he did.

Mr. PECORA. He would not tell you the questions without telling you the answers, would he?

Mr. WILKIN. Just a moment. When the deputy sheriff came and took him out there Strassler was very familiar with Flint. Judge Black, who was conducting this grand jury, was one of the directors of the bank in which I worked. When he got to Flint they did not take him before the judge at all, but they questioned him. He was questioned by the deputy sheriff and the prosecutor in the sheriff's office.

Senator COUZENS. Then he did not appear before the grand jury?

Mr. WILKIN. No, sir.

Senator COUZENS. You testified a while ago that he did.

Mr. WILKIN. To all intents he was taken there for that purpose, but he didn't get before the grand jury.

Mr. PECORA. I notice in this exhibit no. 103 of this date, which is a photostatic copy of the report of condition of the Flint bank as of December 31, 1931, that the amount of bills payable shown in this report as of that date is \$1,500,000. Did you see that?

Mr. WILKIN. Yes, sir.

The CHAIRMAN. Do you remember what those bills payable were, the principal items?

Mr. WILKIN. It would be notes to other banks, Senator.

Mr. PECORA. What other banks?

Mr. WILKIN. Some to the Federal Reserve, some to the Guardian, and some, perhaps, in New York.

Mr. PECORA. I show you photostatic copies of two certain documents or statements on printed forms with typewritten figures thereon, both captioned "Union Industrial Trust & Savings Bank, Flint, Mich., General Journal Ledger and Statement of Condition." Will you look at them and tell me if you recognize them as being true and correct copies of the ledger sheets referred to?

Mr. WILKIN. I would say they are copies of those sheets; yes.

Mr. PECORA. I offer them in evidence.

The CHAIRMAN. They will be admitted.

(Photostatic copies of documents captioned "Union Industrial Trust & Savings Bank, Flint, Mich., General Journal Ledger and Statement of Condition", were received in evidence, marked for identification, respectively, "Committee Exhibit No. 104, Jan. 19, 1934", and "Committee Exhibit No. 105, Jan. 19, 1934.")

Mr. PECORA. The first of these exhibits, the one marked "Committee Exhibit No. 104" in evidence purports to be a copy of the general journal ledger and statement of condition of the Union Industrial Trust & Savings Bank, of Flint, Mich., as of Thursday, December 31, 1931, does it not?

Mr. WILKIN. Yes, sir.

Mr. PECORA. The second one of these exhibits, the one marked "Committee Exhibit No. 105" of this date likewise purports to be, on its face, a copy of general journal ledger and statement of the condition of the same bank, of the same date, namely, Thursday, December 31, 1931, does it not?

Mr. WILKIN. Yes, sir.

Mr. PECORA. What is the amount of bills payable and rediscounts shown on the general journal ledger and statement of condition marked in evidence as "Committee Exhibit No. 104"?

Mr. WILKIN. \$2,100,000.

Mr. PECORA. And what is the amount of the corresponding item shown on exhibit no. 105?

Mr. WILKIN. \$1,500,000.

Mr. PECORA. Now, why is there this conflict between these two exhibits with respect to that item?

Mr. WILKIN. They are two different statements

Mr. PECORA. Do they not both purport to relate to the same thing?

Mr. WILKIN. Yes, sir.

Mr. PECORA. That is, each one of these exhibits purports to show the general journal ledger and statement of condition of that bank as of Thursday, December 31, 1931?

Mr. WILKIN. That is right.

Mr. PECORA. Why were there two separate ledger statements of condition of the same date containing these conflicting items?

Mr. WILKIN. It would be only a guess. I don't remember, but I can guess. When this item was not straightened out the way it should have been, in all probability the bookkeeper went back to reflect the true condition of the books and made up the statement as it should be, and without this \$600,000 entry. That is the only explanation I can think of.

Mr. PECORA. Do you note also that on exhibit no. 104 the item of "Certificates of deposit, commercial", is shown to be \$308,832.74?

Mr. WILKIN. Yes, sir.

Mr. PECORA. And you notice that the corresponding item on exhibit no. 105 is \$908,832.74, or exactly \$600,000 more than the amount of the item as it appears on exhibit 104?

Mr. WILKIN. Yes, sir.

Mr. PECORA. How do you explain that conflict?

Mr. WILKIN. Well, that is the only explanation I can give. It would be the same as the other, that when this entry was not taken care of in Detroit the auditor went back and had a proper statement put in his book. That is the only thing I can say. There may be another reason, but I don't know.

Mr. PECORA. Which of these two exhibits do you regard as the proper statement?

Mr. WILKIN. Well, on December 31 I regarded the one showing the \$1,500,000 of bills payable as proper.

Mr. PECORA. And the certificates of deposit of \$300,000?

Mr. WILKIN. Nine hundred thousand and odd, that would be.

Mr. PECORA. That is right. You regard that as the correct one?

Mr. WILKIN. Yes.

Mr. PECORA. Did the bank have two separate ledger sheets for that day?

Mr. WILKIN. Yes, sir; apparently. I have never seen them before, but there are two sheets there.

Senator COUZENS. Which one was given to the public in the statement of December 31, 1931?

Mr. WILKIN. I could not say. Senator. The statement is there.

Mr. PECORA. Mr. Wilkin, did you ever discuss this \$600,000 certificate of deposit transaction with Governor Grossbeck, the receiver?

Mr. WILKIN. Yes, sir. I would say it would be in April or May of 1933. Mr. John Farley, of Flint, on behalf of his client, was suing Mr. Mott, who was president of this bank. Farley came in to see Governor Grossbeck about it and about the bank generally—

Mr. PECORA. About the Flint bank?

Mr. WILKIN. Yes, sir; and this matter, among others, was brought up at that time, and I, of course, knew about it and told Farley what had happened.

Mr. PECORA. Do you know a Mr. Orcutt?

Mr. WILKIN. Yes, sir.

Mr. PECORA. Who was he?

Mr. WILKIN. He was formerly a banker in some little place in Michigan; I have forgotten the place; but then he came to Flint to take care of the directors' end of this directors' proposition in connection with this defalcation. He kept the books for the directors, and incidentally did some work for me in the bank.

Mr. PECORA. I want to read to you for the purpose of possibly refreshing your recollection concerning the events that will be stated in my reading of this document, from a statement made by Mr. Orcutt in regard to the covering up of the bills payable [reading]:

On the 26th day of May 1933 when I found this transfer on the books—

Relating to this \$600,000 item—

Mr. WILKIN. Yes, sir.

Mr. PECORA (continuing reading):

I called in the attorneys and showed them the entries that were made. They called up former Governor Grossbeck and made an appointment to meet him because Mr. Wilkin was working with him, and they wanted to interview Mr. Wilkin on items that were transferred, and on May 26, 1933, we drove down there and by appointment met Mr. Grossbeck in his office in the Penobscot Building. I had those take-off sheets that you have, and Governor Grossbeck looked at them and he had those accounts that were not broken down, and he said, "This is some more high financing", and laughed and called Wilkin in.

Do you recall that occasion?

Mr. WILKIN. Yes, sir. Orcutt was not there.

Mr. PECORA. Let me read further [reading]:

Mr. Wilkin was cross-examined by Mr. Farley and admitted before all of us that this was a scheme that was put up by Col. James L. Walsh to cover up their bills payable, to dress up their statement, is the phrase he first used, and Mr. Farley said, "That was to deceive them", and he said, "Yes", and he said they did it with all of their units to cover up all their bills payable so that when their combined statement came out they reported no bills payable. In previous statements they had in the neighborhood of \$21,000,000 of bills payable, all of the group, but the report came out with a statement which was signed by Mr. Blair and Mr. Lord, authorized by the executive committee, commenting on the fact that previous statements showed \$21,000,000 and that amount had been gradually reduced until at the time this statement was made none of their units had any. Then Governor Grossbeck turned to Mr. Wilkin and said, "Boy, you are going to jail." Wilkin was quite worked up about it. He argued and said the other banks did the same and he thought it was all right to do it.

Do you recall that?

Mr. WILKIN. I recall beating Orcutt, but I never heard of the \$21,000,000 before. And as far as telling him I deceived people, that is an absolute lie.

Mr. PECORA. There is nothing that I have read here that said you had deceived them.

Mr. WILKIN. Then I have misunderstood what you have read, Mr. Pecora. It says there, according to what I heard, that Farley questioned me and asked if this was to deceive people, and I said "Yes." I never said any such thing.

Mr. PECORA. The statement reads as follows, with regard to that [reading] :

Mr. Wilkin was cross-examined by Mr. Farley and admitted before all of us that it was a scheme that was put up by Col. James L. Walsh to cover up their bills payable; to dress up their statement, is the phrase he first used; and Mr. Farley said that was to deceive them, and he said, "Yes", and he said they did it with all of their units to cover up all their bills payable, so that when their combined statement came out they reported no bills payable—

And so forth.

Mr. WILKIN. That is not true.

Mr. PECORA. Was there any such conversation?

Mr. WILKIN. Yes. This is all with Orcutt. Orcutt was not in the meeting with Grossbeck and Farley and I at all; he was in another office. In Orcutt's presence I said to him, "Well, of course, Orcutt, you have been in a bank long enough to know that all banks window-dress", and Orcutt said, "I never heard of it." So that is the only conversation I had with him, because we had nothing in common and I wouldn't be bothered talking to him.

Mr. PECORA. What was the conversation referred to that you had with Mr. Farley at that time?

Mr. WILKIN. I explained several things to Farley. Farley was suing—or at least his client was suing—Mr. Mott, I think, on the ground that the bank was insolvent when she contributed her share of this defalcation that Mr. Mott testified about, and he claimed his client had no business to owe it. So I talked to him, I would say, about 20 different items in connection with that bank.

Mr. PECORA. Did you discuss in that conversation or interview with Mr. Farley, in Governor Grossbeck's office, this item of bills payable?

Mr. WILKIN. Yes, sir.

Mr. PECORA. Tell us what you said to Farley about that.

Mr. WILKIN. Well, I told him exactly that obviously these moneys came into the bank to take care of the bills payable.

Mr. PECORA. Did you say that was window-dressing, or words to that effect?

Mr. WILKIN. I did to Orcutt; yes. I don't remember saying that to Mr. Farley.

Mr. PECORA. Did you say to Farley that all of the unit banks had adopted this policy of covering bills payable through the medium of certificates of deposit?

Mr. WILKIN. No, sir. I didn't know that was the case. There are some banks that I don't think ever did it, in our group.

Mr. PECORA. Did you not tell this committee this morning that that was the general policy of the Group Co. with its unit banks?

Mr. WILKIN. No; I did not, Mr. Pecora.

Mr. PECORA. Did you first learn what the method of covering up bills payable was in connection with these transactions of December 31, 1931, that have been referred to in the course of your testimony?

Mr. WILKIN. No, sir; but I knew that a few of the banks had done it, but I thought they were banks a good deal like the one I was running. For instance, the Flint bank was the most frozen-asset bank in Michigan, I think, in 1929. When I went to Flint we had a run, a very pronounced run, on that bank for 60 days, in which I lost

between 5 and 6 million dollars in deposits. I couldn't liquidate fast enough to keep the depositors satisfied. So the Bethlehem Steel Co., the American Rolling Mills, Ford Motor Co., and Armour & Co. came in with huge deposits into that bank, and that came all through Guardian, and I thought that I was being, and I know I was being, particularly taken care of on account of the condition of that bank.

Mr. PECORA. Mr. Wilkin, do you recall as an incident to that meeting in Governor Grossbeck's office, referred to in this statement of Orcutt, that Governor Grossbeck turned to you saying something about your going to jail?

Mr. WILKIN. Yes; it was a joke.

Mr. PECORA. He said it as a joke?

Mr. WILKIN. Yes, sir.

Mr. PECORA. Did you think it was a joke when he said that?

Mr. WILKIN. I absolutely knew it was a joke.

Mr. PECORA. And instead of being worked up about it, did you laugh at the joke?

Mr. WILKIN. I couldn't help it, Mr. Pecora. If this had been deception I would have put in \$2,100,000 of C.D. and wiped out my bills payable. There was no deception as far as I am personally concerned with this matter.

Mr. PECORA. Because you did not wipe out the entire amount of bills payable, \$2,100,000, but only wiped out \$600,000 thereof, it was no deception?

Mr. WILKIN. Not on my part.

Mr. PECORA. On whose part?

Mr. WILKIN. I don't think, on anyone's part.

Mr. PECORA. It would have been deception if the entire amount of \$2,100,000 bills payable had been wiped out?

Mr. WILKIN. I might so construe it; yes.

Mr. PECORA. If you go all the way in wiping out those items of bills payable it is deception, but if you only go part of the way it is not deception? If that your philosophy?

Mr. WILKIN. Oh, no, no; providing you do it by soliciting funds and wiping out \$2,100,000 in this instance—yes; I would say it was deception. The \$600,000 came in unsolicited and went to pay off bills payable.

Mr. PECORA. On January 2, 1932, that certificate of deposit, as appears from the record here, was withdrawn and canceled, was it not?

Mr. WILKIN. That is right.

Mr. PECORA. And that restored that \$600,000 to the bills payable account, did it not?

Mr. WILKIN. That is right.

Mr. PECORA. You signed this statement of condition of the bank marked in evidence here as "exhibit no. 103" on January 8, 1932, did you not? Look at the exhibit and see the date of it.

Mr. WILKIN. Yes, sir.

Mr. PECORA. When you signed that on January 8, 1932, it showed bills payable amounting to only \$1,500,000 instead of \$2,100,000, and you knew that 6 days before you signed that report, namely, on January 2, 1932, the certificate of deposit by which you were enabled to reduce the bills-payable item from \$2,100,000 to \$1,500,000 had been withdrawn or canceled?

Mr. WILKIN. I knew it at that time, and should have, of course, checked this statement, which I did not do.

The CHAIRMAN. Were the deposits by the Bethlehem Steel Co. and the Ford Motor Co.—the large deposits that you mentioned—temporary deposits?

Mr. WILKIN. Some were for several months, and some were in the bank, part of them, when the bank closed for the holiday on February 11. But I would like to say this, Mr. Pecora, if I may, that when I went to Flint the deposits were \$24,000,000.

Senator COUZENS. When was that?

Mr. WILKIN. November 1, 1929. I paid off in that bank over 50 percent of those deposits during my 2 years or two and a quarter years in Flint. In other words, the people got a real 50-percent dividend before I left there.

The CHAIRMAN. The committee will now adjourn until 2 o'clock next Tuesday.

Senator COUZENS. And you will return, Mr. Wilkin, will you?

Mr. WILKIN. Yes, sir.

(Whereupon, at 1:15 p.m., the subcommittee adjourned until Tuesday, Jan. 23, 1934, at 2 p.m.)

COMMITTEE EXHIBIT No. 95, JANUARY 19, 1934.

CORPORATIONS—SURETYSHIP: Corporations may guarantee obligations of subsidiary companies and others where its own rights or property interests are directly benefited or promoted.

JANUARY 27, 1931.

Hon. CHARLES D. LIVINGSTON,

Commissioner of Insurance, Lansing, Michigan.

DEAR SIR: You have submitted for determination by this Department the question whether a holding company organized to own the stock of other corporations, including the stock of banks and trust companies, and which owns all of the stock in such subsidiaries except directors qualifying shares, may become surety on bonds securing the deposits of public funds in the subsidiaries. The holding company is organized under the general corporation code, and no express power to act as surety is found in the enumeration of the objects and purposes for which the corporation is formed.

The general rule relating to the right of a corporation with reference to guaranty and suretyship is—

“that it is ultra vires of a corporation to enter into contracts of guaranty or suretyship not in furtherance of its business, unless given express authority to do so. The fact that the corporation may reap some indirect benefit from becoming a surety or guarantor for another does not confer upon it implied power to do so: * * * It is not, however, ultra vires for a corporation to enter into contracts of guaranty or suretyship where it does so in the legitimate furtherance of its purposes and business.”

7 R.C.L. 603

This rule was restated by the Circuit Court of Appeals of the Second Circuit in *In Re John D. Rose Company*, 275 F 416, where the court said—

“A corporation ordinarily is without power to enter into a contract of guaranty, as such a contract is foreign to the objects of its creation and hazards its funds in a manner unwarranted by the contract which exists between it and the state, and between it and its stockholders. The existence of such a power is sometimes implied, however, when it is necessary to enable a corporation to accomplish the objects for which it is created, or when it is reasonably necessary in the conduct of its business.”

The reason for this rule was well stated in *Munaz v. Brasel* (Tex. civ. app.) 108 S.W. 417, where a corporation formed principally to buy and sell liquors at wholesale and retail was held to have implied power to sign a saloon keeper's

bond although there was no express or implied agreement entered into that the saloon keepers should purchase liquor of the corporation. The court said—

"To secure the patronage of such dealers is, therefore, directly in line with the business for which it was formed. That aid in furnishing the necessary bonds for such dealers was a means calculated to secure for it business and promote its interest is also evident. To deny it the power to go on such bonds would be throwing an impediment in the way of its business, instead of according to it the right to use what is a direct means of enabling it to accomplish the purposes of the incorporation.

"The building up of a trade for itself is not foreign to the business of a mercantile corporation. A system which it adopts that is so clearly and directly designed to build up its trade, as, in this case, the signing of bonds for customers or prospective customers, is not outside of its powers."

There is a long line of cases involving specifically the right of a wholesale liquor dealer or brewer to guarantee the performance of various undertakings by his customers, and it is almost uniformly held that where a direct benefit thereby inures to the surety it is entirely *intra vires* for a corporation to act as such. Typical of these cases is *Timm v. Grand Rapids Brewing Company*, 160 Mich. 371. The defendant, a corporation engaged in the business of manufacturing and selling all kinds of malt and fermented liquors, made a practice of furthering its business by aiding such keepers of saloons as purchased its product in obtaining securities upon their bonds required by law, and in the instant case induced the plaintiffs to become one of the securities upon the bonds, agreeing to indemnify him against any loss. Upon suit being brought on the basis of this indemnity the plea that the promise was *ultra vires* was interposed. Overruling this contention the court said—

"The purpose for which the 'Brewing Co.' was organized was stated in its articles to be 'the manufacture and sale of malt and all kinds of malt and fermented liquors and aerated and charged waters.' Under the well-settled rule the defendant had implied power to do those things necessary and helpful to the conduct of its authorized business. It could itself engage in the sale at retail of its product in as many places as it might desire, and therefore might contract with its own sureties requisite to such business, and in our opinion it might also render assistance to purchasers of its product in furtherance of a contract for such purchase."

It becomes evident, therefore, that the direct question with which we are confronted is whether the guaranty of deposits in its subsidiaries is such a furtherance of the business of the parent company as to reasonably lead to the implication of a power to act as surety as one of the incidents of the powers expressly conferred by the corporate charter. An analysis of some of the cases in which the precise question played a part will be helpful in reaching a determination.

Pollitz v. Public Utilities Commission of Ohio 96 Ohio St. 49, 117 N. E. 149, L.R.A. 1918-d 166, was error to the commission to review its order authorizing a railroad company to join with certain other roads in guaranteeing payment of the principal and interest of certain bonds as they became due. In acknowledging the railroad company's authority so to do, the court said—

"We think that in view of the express statutory provision of Ohio which confers upon corporations the authority to 'purchase, or otherwise acquire, and hold shares of stock in other kindred but not competing private corporations, domestic or foreign,' pursuant to which the applicant acquired stock in the Toronto, Hamilton & Buffalo Company, applicant was authorized, as incident to the larger power, to purchase bonds of the Toronto, Hamilton & Buffalo Company, if in its judgment, acting in good faith, such a transaction would safeguard and further its interests as a stockholder; and, having legally acquired the bonds, it may, upon reason and authority, dispose of them in the ordinary manner dictated by business prudence and practice. It must be remembered that at all times the good faith and the character of the transaction, as to being fraudulent or otherwise illegal, may be inquired into in a proceeding in a court of competent jurisdiction."

In *Henderson Tire and Rubber Co. v. Gregory*, 16 F. 2d, 589, 49 A.L.R. 1503, one of the questions involved was the right of a company which owned a large part of the stock of a subsidiary company to endorse trade acceptances of the latter. The court held the endorser liable, saying in part:

"We agree with the trial court in holding that the indorsement by the Rubber Company of the acceptances of the Stores Company was in furtherance of the business of the Rubber Company and reasonably incidental to it. * * *

Upon the whole evidence, therefore, we think that the claim on the indorsements is brought well within the principle that a corporation may enter into a contract of guaranty when reasonably incidental to its authorized business."

In *Lumberman's Trust Co. v. Title Insurance and Investment Company of Tacoma*, 248 F. 312, it was held that although the constitution of the State of Washington declares that corporations shall not issue stock except to bona fide subscribers or their assigns, nor shall any corporation issue any bond or other obligation for the payment of money except for money or property received or labor done, it does not, its obvious purpose being to protect creditors of corporations and prevent the issuance of worthless securities, preclude a corporation, which, through the agency of another, it organized for the purpose of acquiring the business of a competitor, from guaranteeing the principal and interest of the indebtedness, incurred by its subsidiary; it appearing that the stock of the nominal purchasing corporation was held by the shareholders of the principal company, and there being a valuable consideration for the guaranty. See also 248 F. 303.

The following statement is taken from the syllabus of *Kendall v. Klapperthal Co.*, 202 Penn. 586, 52 Atl. 92:

"Where three corporations are organized to act, and do act, and are treated by all connected therewith, as virtually branches of a single organization, having mutual and interdependent interests, and co-operating on lines of common interest and policy for the furtherance of the purposes and the development of the property of one of them, the parent corporation, the relation between them is sufficient consideration for assumption by the parent corporation of the duty of reimbursing indorsers of the notes of another of the corporations for loss from their indorsements."

A case decidedly analogous to that here under discussion is *State Bank of Fairfax v. Pacific Elevator Co.*, 169 Minn. 94, 198 N.W. 304. Three actions were there brought against the Pacific Elevator Company to collect the amount of three notes executed by the Crescent Milling Company, payment of which the Pacific Elevator Co. had guaranteed. The plaintiffs were banks from which the Milling Company had borrowed money for use in carrying out its business. The capital stock of the Milling Company was held in equal amounts by the Pacific Elevator Company and another corporation. There was practically one ownership of all of the companies through interlocking directorates and stock holdings. The court sustained liability on the part of the elevator company as indorser on the notes, using in part the following language:

"The notes were given for debts of the milling company. The elevator company claims that it was merely an accommodation surety thereon, and was without power to assume such obligations. It is a well-settled general rule that in the absence of express authority therefor a corporation cannot become a surety or guarantor for the benefit of another. * * * But here the elevator company owned nearly one-half of the capital stock of the milling company, and, as such owner, was directly interested in the business of that company. Dividends earned by that company would increase the income of the elevator company and enhance the value of its holdings; losses incurred by that company would reduce the income of the elevator company and lessen the value of its holdings. If the milling company should become unable to continue in business for lack of funds, the elevator company might lose its investment and also be subjected to an assessment upon its stock to pay liabilities.

"While a corporation cannot become a surety on obligations in which it has no interest, it may guarantee the obligations of its subsidiary companies; and this doctrine has been extended to permit it to guarantee the obligations of others where the purpose is to promote or protect its own rights or property interests, or to accomplish some legitimate object of financial benefit to it, and not merely to aid the primary obligor."

The analogy between the facts as presented in the Fairfax case and those with which we are here concerned becomes readily apparent. Where in that case less than one-half of the capital stock of the subsidiary company was owned by the parent company, here all of the stock, for practical purposes, is so owned. Here, as there, dividends owned by the subsidiary company would increase the income of the parent company and enhance the value of its holdings, while losses would have the converse effect. The value of the stock of the holding company varies directly, therefore, with the value of stock in the subsidiary companies, which is in turn dependent upon the earnings of the latter. Deposits are furthermore requisite to earnings by a bank, and the

holding company is, therefore, within its rights in doing whatever is reasonably necessary to encourage the placing of deposits with the banks in which it is interested. It seems to be but reasonably incidental to the furtherance of this purpose for the holding company to guarantee to depositors the security of deposits with the subsidiary banks, and the execution of a guaranty or undertaking of suretyship for that purpose would not be an ultra vires act, notwithstanding the absence from the articles of association of any express authorization so to act.

It is my conclusion, therefore, that as long as a holding company limits its guaranty and surety undertakings to its subsidiary units upon whose business it depends for the success of its own existence, there can be no legal objection to such action. There must in all such cases, however, be a direct relationship between the guaranty and the business of the guaranteeing company.

I feel called upon, however, by motives of public policy, to caution depositors, especially municipal corporations, against the too liberal exercise of the rule here announced. While not, strictly speaking, a legal question, there is, however, an important question of policy to which I must allude. The purpose of a guaranty is to insure the faithful performance of an undertaking by the principal, in default of which the person indemnified or the obligee may resort to the liability assumed by the guarantor. Applied to the instant case, it means simply that if a municipal corporation should deposit funds in a bank and the security of those deposits should be guaranteed by a mercantile corporation organized to hold the stock of that bank and of other banks, and the bank should fail, the depositor would have recourse against the assets of the holding company as the guarantor. However, as already pointed out, the assets of the holding company consist chiefly, if not entirely, of stocks including the stock of the defunct bank. The value of the holding company's assets is therefore no greater than the total value of all of the stock in its portfolio, except, of course, for such cash assets which it may own in the way of undivided profits, etc. It is entirely conceivable, however, that the failure of a bank may directly result in the failure of a holding company, or at least result in serious impairment of the holding company's assets. In such a case, the situation would be one where the bank in effect guaranteed its own obligations, and the depositor would find himself without secondary protection of any kind. In fact, if the sole assets of the holding company should be the stock of the defunct bank, the guaranty would fall with the principal obligation. There is, therefore, an element of danger in the practical application of the holding reached above, to which attention should be directed.

Very truly yours,
CR: LD/o

ATTORNEY GENERAL.

STOCK-EXCHANGE PRACTICES

TUESDAY, JANUARY 23, 1934

UNITED STATES SENATE,
SUBCOMMITTEE OF THE COMMITTEE
ON BANKING AND CURRENCY.

Washington, D.C.

The subcommittee met at 2 p.m., pursuant to adjournment, on Friday, January 19, 1934, in room 301 of the Senate Office Building, Senator Duncan U. Fletcher presiding.

Present: Senators Fletcher (chairman), Adams, Townsend, and Couzens.

Present also: Ferdinand Pecora, counsel to the committee; Julius Silver and David Saperstein, associate counsel to the committee; and Frank J. Meehan, chief statistician to the committee.

Senator COUZENS (presiding). The subcommittee will please come to order. Mr. Pecora, who will you have first?

Mr. PECORA. Mr. Wilkin please resume the stand.

TESTIMONY OF HERBERT R. WILKIN, DETROIT, MICH.—Resumed

Mr. PECORA. Mr. Wilkin, I want to refer again to the testimony that has been received by this committee with respect to the use of that certificate of deposit of \$600,000, dated December 31, 1931, marked in evidence before this committee as "Committee Exhibit No. 48, December 21, 1933." You will recall that you gave considerable testimony in regard to the transaction that was denoted by this certificate of deposit when you were on the stand last week.

Mr. WILKIN. Yes.

Mr. PECORA. In the course of that testimony I understood you to say, among other things, that this certificate of deposit was not used. Am I correct in my understanding that your testimony was to that effect?

Mr. WILKIN. Yes, sir.

Mr. PECORA. Well, how do you account for the fact that it was issued if, as you say, it was not used?

Mr. WILKIN. Well, I meant that it never was used by the payee, Mr. Pecora.

Mr. PECORA. Why wasn't it used?

Mr. WILKIN. Because they had not gone through with their own transaction in Detroit.

Mr. PECORA. Just what do you mean by that? Who was derelict in not going through with his end of it?

Mr. WILKIN. Well, the people who had charge, or the person who had charge of the other end of that transaction.

Mr. PECORA. What was the nature of the transaction which was not consummated?

Mr. WILKIN. It was the crediting of our account with the \$600,000 as advised, and the charging—or at least the crediting of our account with that \$600,000 in our bills payable.

Mr. PECORA. If the certificate of deposit was not used for any reason at all, then why were the bills payable of the Union Industrial Bank of Flint reduced by the amount of this certificate of deposit?

Mr. WILKIN. We anticipated that that would be the way this would be handled, which was the usual way to handle such a transaction.

Mr. PECORA. Do you know why the certificate of deposit was issued in the first instance? It was signed by the assistant cashier, Mr. Holmes, of the Union Industrial Bank of Flint.

Mr. WILKIN. Yes, sir; it was. Now, do I know why it was issued?

Mr. PECORA. Yes.

Mr. WILKIN. Well, because we had our advices of the crediting to our account of this amount of money.

Mr. PECORA. Who sent you that advice?

Mr. WILKIN. As I understand it, it was Mr. Patterson.

Mr. PECORA. Who was then executive vice president of the group.

Mr. WILKIN. Yes, sir.

Mr. PECORA. And how were those advices communicated to you, by mail or by telephone or how?

Mr. WILKIN. By telephone.

Mr. PECORA. What did Mr. Patterson say, specifically?

Mr. WILKIN. I don't remember. Whether he talked to me or not I could not say.

Mr. PECORA. Well, the officer, if it was someone other than yourself, of the Flint Bank, reported it to you, didn't he?

Mr. WILKIN. I don't remember about that.

Mr. PECORA. Well, what were the advices which prompted the issuance of this certificate of deposit by the Flint Bank in favor of the Guardian Detroit Bank?

Mr. WILKIN. Well, the advices were given on the telephone, which was the usual way that we received such advices.

Mr. PECORA. It appears from the evidence that the issuance of this certificate of deposit was entered upon the books of the Flint bank.

Mr. WILKIN. Yes, sir.

Mr. PECORA. As of December 31, 1931.

Mr. WILKIN. Yes, sir.

Mr. PECORA. Now, the day following December 31, 1931, was a legal holiday?

Mr. WILKIN. Yes, sir.

Mr. PECORA. And banks were not open?

Mr. WILKIN. Yes, sir; that is right.

Mr. PECORA. The following day, January 2, was the first business day after the date of the issuance of this certificate of deposit.

Mr. WILKIN. That is right.

Mr. PECORA. I notice, just as you have heretofore been advised, because I called it to your attention when you were on the stand

last week, that this certificate of deposit has the following endorsement or inscription on the back of it:

This C.D. withdrawn January 2, '32, and we credit Guardian Detroit Bank.

What is the significance of that endorsement or statement?

Mr. WILKIN. Well, I would say that the entry was just the reverse.

Mr. PECORA. What is the significance of the withdrawal of it?

Mr. WILKIN. It was just in keeping with all the testimony I think that I have given about it.

Mr. PECORA. Why was it withdrawn?

Mr. WILKIN. Because the entry had never—or the transaction had never cleared.

Mr. PECORA. Why hadn't it cleared?

Mr. WILKIN. Well, for the reason that the Detroit bank had not given us the credit as agreed on the telephone.

Mr. PECORA. Do you mean they did not put you in possession of the funds?

Mr. WILKIN. That is right.

Mr. PECORA. Corresponding to the amount of this certificate of deposit?

Mr. WILKIN. Yes, sir.

Mr. PECORA. Namely, \$600,000?

Mr. WILKIN. Yes, sir.

Mr. PECORA. If that is so, then why in the statement that was issued showing the condition of the bank as of December 31, were bills payable reduced from \$2,100,000 to \$1,500,000, or reduced by a sum corresponding to the amount of this certificate of deposit?

Mr. WILKIN. What statement have you now reference to?

Mr. PECORA. The one that was put in evidence here last week, which was signed by you.

Mr. WILKIN. I cannot answer that question.

Mr. PECORA. Why not?

Mr. WILKIN. Because, Mr. Pecora, the signing of bank statements is a purely routine matter. I do not think any executive officer of a bank ever goes through and checks the actual items on a bank statement.

Senator COUZENS. Was there any statement published in the Flint papers as to the condition of the bank as of December 31, 1931?

Mr. WILKIN. I would say there was.

Senator COUZENS. Which of the two statements was published, the one showing \$2,100,000 bills payable or the one showing \$1,500,000 bills payable?

Mr. WILKIN. I could not tell you.

Mr. PECORA. That statement of the condition of the bank as of December 31, 1931, was dated, as appears from the evidence introduced here last week, January 8, 1932. Do you recall that?

Mr. WILKIN. That is right.

Mr. PECORA. In other words, it was 6 days after it was known that this certificate of deposit had not cleared?

Mr. WILKIN. Yes, sir.

Mr. PECORA. If it was known then that it had not cleared, why was the statement of condition of the bank made out so as to report bills payable at \$1,500,000 instead of \$2,100,000?

Mr. WILKIN. I cannot answer that question, Mr. Pecora. I did not make out the statement.

Mr. PECORA. You signed it as executive vice president and cashier of the bank?

Mr. WILKIN. Yes; without checking it. As I say, that is a purely routine matter in a bank.

Mr. PECORA. Now, Mr. Wilkin, let me call your attention to the fact that in the printed annual report issued by the Group Co. to its stockholders for the year 1931 there appears at page 21 thereof a statement of condition of the Union Industrial Trust & Savings Bank of Flint, Mich., which shows under the caption "Liabilities" an item of bills payable as \$1,500,000. So that that figure was even carried out in the annual report issued by the Group Co. to its stockholders for the year 1931. You notice that on the report which I hand over to you for inspection, do you?

Mr. WILKIN. Yes, sir.

Mr. PECORA. How do you account for that?

Mr. WILKIN. Well, that is practically the same statement that you have introduced in evidence here.

Mr. PECORA. It is a copy of it?

Mr. WILKIN. No.

Mr. PECORA. It is not textually a copy of it, but——

Mr. WILKIN (interposing). No.

Mr. PECORA. Not textually a copy of it, I know, but the same thing.

Mr. WILKIN. It is taken from the same figures that you have produced here.

Senator COUZENS. Mr. Wilkin, this report that Mr. Pecora has just referred to is dated January 26, 1932.

Mr. WILKIN. I imagine that the units of the group, or the banks, would have to have that in for the purposes of the group during the very early part of January.

Senator COUZENS. That \$600,000 would show in the Guardian Detroit Bank as money in other banks, wouldn't it?

Mr. WILKIN. Yes, sir. I beg pardon; this entry did not go through, so they did not show it in that.

Mr. PECORA. If that certificate of deposit had properly cleared, the statement of condition of the Flint bank would have shown deposits of \$600,000 more as a result of this certificate of deposit?

Mr. WILKIN. I will have to explain that, Mr. Pecora.

Mr. PECORA. All right. Please do so.

Mr. WILKIN. Because if this money came direct from the Guardian Bank and was deposited by them, that would be true. But you mean that the \$600,000 would be reflected in their deposits and also in the deposits of the bank at Flint?

Mr. PECORA. Yes.

Mr. WILKIN. Yes, sir.

Mr. PECORA. And the deposits of the bank at Flint would be increased by the sum of \$600,000 as a result of this certificate of deposit?

Mr. WILKIN. Provided it was their own funds.

Mr. PECORA. Don't you know that the amount of such deposits were increased in that statement of condition by \$600,000 because of this certificate deposit even though it had not cleared as you say?

Mr. WILKIN. Well, that is obvious; yes, sir.

Mr. PECORA. Why was that done? In other words, why was the bank at Flint crediting itself with a deposit of \$600,000, represented by a certificate of deposit that had not cleared?

Mr. WILKIN. I do not understand that question. I do not want to appear evasive about it, but we did not know, Mr. Pecora, that it had not cleared. There was no way for us to know until January 2, when we received our statement from the Detroit bank.

Mr. PECORA. Then, on January 2 did you know that this certificate of deposit had been canceled?

Mr. WILKIN. I did; yes.

Mr. PECORA. Because of the failure on the part of the Guardian Detroit Bank to fulfill its part of the transaction?

Mr. WILKIN. Yes, sir.

Mr. PECORA. Well, if you knew that then, why was the statement of condition, which was made on January 8, 1932, as of December 31, 1931, so made as to show a reduction of bills payable, on account of this certificate of deposit, from \$2,100,000 to \$1,500,000?

Mr. WILKIN. I cannot tell. I did not make up the statement.

Mr. PECORA. Mr. Wilkin, you eventually became executive vice president of the Group Co., didn't you?

Mr. WILKIN. Yes, sir.

Mr. PECORA. Do you care to express any opinion of yours to this committee with regard to the soundness or the wisdom of the dividend-paying policy that, according to the evidence introduced before this committee, was adopted by the Group Co. and its banking units?

Mr. WILKIN. Well, of course, Mr. Pecora, as we look back upon it now, it was not, perhaps, the thing to do. However, it was done in conjunction with the advice and counsel of the banking departments, both State and national.

Mr. PECORA. Was it done in conjunction with any advice received from National bank examiners?

Mr. WILKIN. I think without exception, Mr. Pecora.

Mr. PECORA. Don't you know, according to the evidence introduced before this committee and consisting in part of documentary evidence in the form of reports made by national-bank examiners to the Comptroller of the Currency, that the payment of many dividends by the unit banks was criticized?

Mr. WILKIN. No; I do not know that. Perhaps I should have read the testimony, but I did not read it. But I will tell you of one instance that I have very clear in my mind. It was the Capital National Bank of Lansing, and it had been arranged with the national department, with Mr. Leyburn, to pay a dividend at that bank, and a few of us decided that it absolutely was not the thing to do, to pay it in 1932.

Mr. PECORA. Do you know of any instances where the officers of the Group Co. conferred with national banks and State bank examiners for the purpose of getting their judgment or views with regard to the declaration of dividends by unit banks and by the Group Co.?

Mr. WILKIN. Yes, sir; I do.

Mr. PECORA. How many such instances do you personally know of?

Mr. WILKIN. Well, I have that one very clearly in mind.

Mr. PECORA. Is that the only one that you have clearly in your mind?

Mr. WILKIN. No. I conferred with the State Department while I was in Flint. I paid a dividend, I would say, in March or June of 1931 out of undivided profits, when I did not earn it, but I did it with the consent of the State banking department.

Mr. PECORA. Who was the State bank examiner who consented to that?

Mr. WILKIN. Mr. Taylor. Not the deputy commissioner, but Mr. Taylor, and I think his name was Herman Taylor.

Senator COUZENS. Did he give you that consent in writing?

Mr. WILKIN. I don't know. But I am sure, or I know that he gave it to our executive committee when it was going into the matter, when he was going over the recapitulation or examination.

Mr. PECORA. Can you call to this committee's attention where national bank examiners advised the payment of dividends by any of the group banks?

Mr. WILKIN. Yes, sir. Take this case in Lansing. That was the one I mentioned where his permission was given after he had been consulted. And if I am not mistaken, Mr. Pecora, that evidence was put in here by someone before this.

Mr. PECORA. Who was that examiner?

Mr. WILKIN. Well, this was the chief examiner who, as I say, I was advised, or at least he was perfectly willing that it should be done. And the Group Co., or some of the officers of the group, decided it was not the thing to do, and did not do it.

Mr. PECORA. Then it was not done?

Mr. WILKIN. No; it was not.

Mr. PECORA. Tell me of any instance that you know of where a dividend was declared by any of the banking units of this Group Co., out of undivided profits or surplus account, upon the approval, or with the approval of a national bank examiner.

Mr. WILKIN. Of my own knowledge I cannot say. But I do say this: That it was my understanding there never was a dividend paid by this group that had not their permission before it was paid out of undivided profits.

Mr. PECORA. And do you mean that it had the permission of the national bank examiner?

Mr. WILKIN. Yes, sir.

Mr. PECORA. Are you familiar with the evidence that has been adduced before this committee, consisting in part of reports of national bank examiners to the Comptroller of the Currency, in which they criticized the payment of those dividends?

Mr. WILKIN. Well, I am not; no, sir.

Senator COUZENS. Anyhow, the committee has that evidence.

Mr. PECORA. Mr. Wilkin, have you any opinions you would care to express to this committee concerning the wisdom or soundness of group banking, based upon your experience as an officer of banks and as executive vice president of this Group Co.?

Mr. WILKIN. Well, of course, I think, and it is only my opinion, that group banking has its weaknesses.

Senator TOWNSEND. What are they?

Mr. WILKIN. Well, as we know it in Michigan, Senator Townsend, that was the form in which they owned stock in every one of these units, but they hadn't a thing to do about the management of them.

Mr. PECORA. What do you mean by that? That the officers of the Group Co., and the board of directors of the Group Co., had nothing to say about the management of the unit banks whose capital stock the Group Co. owned?

Mr. WILKIN. It was so set up; yes, sir.

Mr. PECORA. I do not quite understand when you say "it was so set up."

Mr. WILKIN. I think the bylaws of the group covered that.

Mr. PECORA. Apart from the bylaws what were the actual activities of group officers with respect to supervising and directing the activities or policies of the various banking units of the group?

Mr. WILKIN. Shall I tell you my particular end of it?

Mr. PECORA. Tell me what you know about it.

Mr. WILKIN. All right.

Senator COUZENS. Mr. Wilkin, sit back so you can talk into the microphone, so these newspaper men around here may hear you.

Mr. WILKIN. All right.

Mr. PECORA. Now go ahead and answer.

Mr. WILKIN. I came from Detroit to Flint in May of 1932. We had liquidated that bank down to a point where—well, we had taken loans from something like 14 million dollars down to 3 million dollars, where the liquidation had become very slow. So I came into the group office as vice president at that time. The big question with every banker, and this follows in Detroit, I was associated with was the question of more liquidity and more liquidation. And I worked out what was known as a standardization loan plan for the unit banks to adopt if they saw fit. Together with Mr. Kanzler I went to Kalamazoo and Battle Creek. We went into this plan with them, with their directors, and they wanted it; and I was later elected to those boards. However, we put the plan up to Grand Rapids, and we put it up to Saginaw, and they just did not want it. They wouldn't have it. And that is why I say we did not have the control, or the group bank does not have control to operate those units.

Mr. PECORA. What greater measure of control could the Group Co. have had, what more effective form of control could they have had than their ownership of practically all of the capital stock of the various unit banks?

Mr. WILKIN. This was perhaps hearsay, but it is my understanding that the laws of Michigan when this group was organized would not permit them to operate those units; that it was the distinct understanding when the group was organized that they must own but not operate.

Mr. PECORA. Will you say that that was the cause of some statutory provision in Michigan?

Mr. WILKIN. Well, I am not familiar with it, but that is my belief, Mr. Pecora.

Mr. PECORA. Can you refer me to any such statutory provision?

Mr. WILKIN. No. But I think Mr. Lord might be able to explain that. Now, I am coming back to Mr. Lord's testimony given before this very committee, I think, as to perhaps 2 years ago.

Mr. PECORA. Didn't the Group Co. through its officers from time to time make changes in the personnel of the boards of directors of the various unit banks?

Mr. WILKIN. I do not know of any instance where they made changes in the boards of directors. I do know this, that I was asked to make some changes in officers by the banks themselves, and I was a group officer.

Mr. PECORA. Do you know of any instances where changes were made in the personnel of officers of unit banks by the Group Co.?

Mr. WILKIN. In conjunction with the local board; yes.

Mr. PECORA. You know of cases, don't you, where the Group Co. fixed its own dividend requirements and then made what have been called here suggestions to the various unit banks to declare dividends in order to enable the Group Co. to meet its own dividend requirements?

Mr. WILKIN. Of my own knowledge I do not know that, Mr. Pecora.

Mr. PECORA. You do not know that?

Mr. WILKIN. No, sir; I know that when I declared dividends it was done after many consultations with the group officers and our directors.

Mr. PECORA. Have you heard testimony introduced before this committee showing that the Group Co. first adopted its own dividend requirements and then called upon the unit banks to support those requirements in their dividend declarations?

Mr. WILKIN. Yes; I think I do.

Mr. PECORA. Well, that testimony, much of which was documentary, is credible, isn't it?

Mr. WILKIN. Well, if you are asking for me to testify as to what I have read, that is different. I thought you wanted my own personal slant on the matter.

Mr. PECORA. You said you had never heard of it.

Mr. WILKIN. I said of my own knowledge I did not know that. In other words, in my own contacts I did not run into that situation.

The CHAIRMAN. Wouldn't you, as vice president of the group, exercise the right to actually do that sort of thing?

Mr. WILKIN. What is that, Mr. Chairman?

The CHAIRMAN. To send to the unit banks from time to time your own investigators and examiners to advise with their boards of directors respecting the affairs of the institutions, and to give them some directions and instructions.

Mr. WILKIN. Senator Fletcher, when I became vice president of the group, the examining force had all been distributed. That is, they had all taken positions in the units. There was no more an examining force when I came in there.

The CHAIRMAN. Had that been done before by others?

Mr. WILKIN. Yes: as to the units I worked in, group examiners had examined my bank many times.

Mr. PECORA. What other defects or weaknesses in the group banking system can you point to in further answer to Senator Townsend's question?

Mr. WILKIN. Well, I think, for instance, the officers in most cases of the group were also officers of the unit banks. And that is where

the alliance was, and it is always natural, with respect to the unit banks. However, we were looking out for it, I think, more than they were, for the group itself.

Mr. PECORA. I just want to ask you one more question about the report of the condition of the Flint Bank as of December 31, 1931, which you signed and verified on January 8, 1932. I want to read to you the following from committee exhibit 103, which is a photostatic copy of that report. I am going to read the verified statement that you made over your signature and upon oath in connection with this report :

I, H. R. Wilkin, executive vice president and cashier of the above-named bank, do solemnly swear that the above statement is true, and that the schedules attached hereto and those on the back of this report, fully and correctly represent the true state of the several matters therein contained and set forth, to the best of my knowledge and belief.

That is signed by you and sworn to by you before a notarial officer of the State of Michigan.

Mr. WILKIN. Yes, sir.

Mr. PECORA. Do you think that the taking of that oath was a mere routine thing, Mr. Wilkin?

Mr. WILKIN. I can only say that it is so far as the executive officers of the bank are concerned, as far as I know.

Mr. PECORA. You can only tell so far as you personally view these statements?

Mr. WILKIN. That is true. However, I do not believe—and I have been in this business a long time—that any signing officer checks the detail on those statements. It may be that they do, but it is very doubtful to me.

Mr. PECORA. In this case, as the signing officer, you function not only as executive vice president, but also as cashier?

Mr. WILKIN. Yes, sir.

Mr. PECORA. Would you not, as cashier, have a knowledge that was something more than that which would be based entirely upon hearsay concerning the condition of the bank, and concerning particularly this item of \$600,000 represented by this certificate of deposit?

Mr. WILKIN. I am not trying to alibi your question, Mr. Pecora, but in this particular bank I would answer that no; for the reason that every officer in this bank was wiped out when I went there. We did not have the men to make officers, and the reason I was cashier of that bank was simply because the president of the bank would not allow anyone else to have the title. It was not because I was doing the cashier's work, because I certainly had not the time to do it, and I think it was understood by everyone concerned that I was not doing the cashier's work.

Mr. PECORA. In this particular instance, Mr. Wilkin, it appears from documentary evidence that you yourself called to our attention when you were on the stand last week, that on January 3, 1932, you knew all about the nonclearance of this \$600,000 certificate of deposit, and the documentary evidence I refer to is the document that you said had been obtained by your secretary from an office-boy of the Detroit bank. Do you remember?

Mr. WILKIN. Yes, sir.

Mr. PECORA. That memorandum or document, which was read in evidence, is dated January 3, 1932, and starts off by saying [reading]:

Mr. H. R. Wilkin telephoned today regarding a deposit of \$600,000 which we were supposed to make with him over the week-end in the form of a certificate of deposit. I discussed the matter with Mr. B. K. Patterson of the Guardian Detroit Union Group, Inc., and it seems that due to the confusion incidental to the consolidating of the Guardian Detroit Bank and the National Bank of Commerce the instructions which he forwarded to us were mislaid. Due, however, to the fact that it was to be a transaction of a few days' duration, it was decided that rather than going to the trouble of making out a certificate of deposit and adjusting the entries on our books, the transaction would be better concluded by the Union Industrial Trust & Savings Bank of Flint making the necessary entries on their books.

Those necessary entries were made, were they not?

Mr. WILKIN. Yes, sir.

Mr. PECORA. And the entries show the clearance of the certificate of deposit as of January 2, 1932?

Mr. WILKIN. Yes, sir.

Mr. PECORA. I think that is all.

The CHAIRMAN. You may be excused.

Mr. PECORA. Mr. Lord.

TESTIMONY OF ROBERT O. LORD—Resumed

The CHAIRMAN. Mr. Lord has been sworn?

Mr. PECORA. Yes, sir. Mr. Lord, I want to ask you a few questions concerning the merger or consolidation which was effected on January 30, 1930, between the Guardian Detroit Bank and the Bank of Detroit.

Mr. LORD. Yes, sir.

Mr. PECORA. You are familiar with the consolidation or merger?

Mr. LORD. In general; yes, sir.

Mr. PECORA. At that time were you connected with the Guardian Detroit Bank?

Mr. LORD. I was president of the Guardian Detroit Bank.

Mr. PECORA. And upon the consolidation, the consolidated bank was called the Guardian National Bank of Commerce?

Mr. LORD. No, sir. It was the Guardian Detroit Bank.

Mr. PECORA. It was afterward merged with the National Bank of Commerce, and became the Guardian National Bank of Commerce.

Mr. LORD. Yes, sir.

Mr. PECORA. You continued as president of the Guardian Detroit Bank on and after this merger of June 30, 1930?

Mr. LORD. Yes, sir.

Mr. PECORA. What was the capital of the Guardian Detroit Bank immediately prior to that merger?

Mr. LORD. The capital was \$5,000,000.

Mr. PECORA. What, at the same time, was the capital of the Bank of Detroit, immediately prior to the merger?

Mr. LORD. \$4,000,000.

Mr. PECORA. What was the surplus of the Guardian Detroit Bank immediately prior to the merger?

Mr. LORD. \$3,000,000.

Mr. PECORA. What was the surplus of the Bank of Detroit immediately prior to the merger?

Mr. LORD. \$1,250,000.

Mr. PECORA. Was it not \$1,274,510?

Mr. LORD. I think not. I have here the 1929 report, for the close of the year, which shows \$1,250,000. I do not think there was any other amount.

Mr. PECORA. After the merger, what was the capital of the consolidated institution?

Mr. LORD. My recollection is \$5,000,000 capital and \$6,000,000 surplus.

Mr. PECORA. Immediately prior to the merger, the combined capital of the two banks was \$9,000,000, and the combined surplus, according to your figures, was \$4,250,000; is that right?

Mr. LORD. Yes, sir.

Mr. PECORA. A total of \$13,250,000. After the merger, the capital of the consolidated institution was reduced to \$5,000,000, and the surplus was increased to \$6,000,000?

Mr. LORD. Yes, sir.

Mr. PECORA. Making a total capital and surplus for the consolidated institution of \$11,000,000, as against a combined capital and surplus for the two constituent banks immediately prior to the merger, of \$13,250,000?

Mr. LORD. Yes, sir.

Mr. PECORA. When the capital of the two merged institutions was reduced from a combination of \$9,000,000 to \$5,000,000, what was done with the \$4,000,000 that was removed?

Mr. LORD. The surplus of the Guardian Detroit Bank after the consolidation was $1\frac{3}{4}$ millions more than the combined surplus of the two constituent institutions. That takes care of a million and three-quarters. There was declared, out of the Bank of Detroit, in a liquidating dividend to the Group Co., \$2,500,000, as I recall the figure, in the form of United States Government securities.

Mr. PECORA. That is what I was coming to. As a result of this merger, there was a reduction of the combined capital and surplus of the two banks of approximately $2\frac{1}{2}$ million dollars, was there not?

Mr. LORD. Yes, sir.

Mr. PECORA. What disposition was made of that?

Mr. LORD. It went into the Group Co.

Mr. PECORA. Paid to the Group Co.?

Mr. LORD. Yes, sir.

Mr. PECORA. In the form of United States bonds?

Mr. LORD. Yes, sir.

Mr. PECORA. Why was that done, Mr. Lord?

Mr. LORD. The principal reason was that the combined capital was greater than necessary for the deposits that were in the combined institutions, and furthermore, it saved the new institution \$75,000 a year in taxes.

Mr. PECORA. It also took out of the new institution the sum of \$2,500,000 of capital funds that otherwise would have been available for depositors, did it not?

Mr. LORD. It did, with the full approval of the banking commissioner.

Mr. PECORA. The banking commissioner of Michigan?

Mr. LORD. Yes, sir. They were both State institutions.

Mr. PECORA. Do you think that was sound banking policy? Do you think it was fair to the depositors of the combined institutions to reduce their deposits by \$2,500,000 through the mere process of declaring a dividend in favor of the Group Co., which was paid in the form of United States Government bonds?

Mr. LORD. Yes. I think it was perfectly good from the standpoint of the depositors, because it enabled the bank to save \$75,000 a year.

Mr. PECORA. And lost to the depositors \$2,500,000 of its capital funds.

Mr. LORD. Capital structure.

Mr. PECORA. Capital funds of the combined institutions, which would have been available to meet claims of depositors and other creditors.

Mr. LORD. It would have, but they had sufficient capital for their deposits after that liquidating dividend was paid.

Mr. PECORA. Was not that a process whereby the Group Co. milked the assets of the capital funds of these combined institutions to the extent of \$2,500,000?

Mr. LORD. I would not think so, Mr. Pecora. It certainly was not done with that intention.

Mr. PECORA. Regardless of the intention, was not that the effect of that transaction?

Mr. LORD. The effect was to take \$2,500,000 of the capital structure of the combined institutions, which institutions had more than was necessary for the deposits, and transfer it to the Group Co.

Mr. PECORA. It had more than was necessary for the depositors at that particular time?

Mr. LORD. Yes, sir.

Mr. PECORA. That gave no regard to a change which might come in the future, and which might jeopardize the interests of the depositors.

Mr. LORD. The change that came, Mr. Pecora, was a further decrease in deposits. If the deposits increased substantially, of course, the company would have had to increase the capital, or should have increased the capital of the two institutions, but the result was—take, for instance, the Guardian National Bank of Commerce. Their capital structure was more than ample, and the Guardian Detroit Bank's capital structure was more than ample, because the deposits kept decreasing.

Mr. PECORA. What was the amount of income that would have accrued to the combined banks from \$2,500,000 of Government securities?

Mr. LORD. Possibly two and a fraction percent. I do not know what the rate was. I will call it 3 percent.

Mr. PECORA. It would just about have taken care of this tax saving of \$75,000 a year, would it not?

Mr. LORD. Yes; for the bank itself; not for the group as a whole.

Mr. PECORA. But the group, after it got the bonds, drew the income from those bonds, did it not?

Mr. LORD. Yes.

Mr. PECORA. The bank did not.

Mr. LORD. No, sir.

Mr. PECORA. So that when you justify, from the standpoint of the benefits accruing to the bank, the taking of this \$2,500,000 of Government bonds out of the capital assets of the combined bank, because it effected a tax saving of \$75,000 a year, you are overlooking the fact, are you not, that the income from those bonds would have taken care of that tax?

Mr. LORD. From the standpoint of the bank itself, yes; but from the standpoint of the group as a whole, no.

Mr. PECORA. What right do you think the Group Co. had to take these capital assets out of one bank, where they belonged to the depositors and the stockholders of that bank, and were a fund of safety for the depositors, and turn them over to the Group Co.?

Mr. LORD. Mr. Pecora, the stockholders voted on this consolidation, and it was made with the full approval of the banking commissioner.

Mr. PECORA. The stockholders in question, who declared this so-called dividend to the Group Co., were the stockholders of the Group Co.?

Mr. LORD. I did not get that.

Mr. PECORA. I mean they were controlled by the Group Co., were they not, as the sole owner of the capital stock of the two banks?

Mr. LORD. Yes, sir; except directors' shares.

Senator COUZENS. When you took over the Bank of Detroit, were there any bad assets taken out?

Mr. LORD. Some, as I remember it, Senator Couzens. There was a writedown of assets, but I do not remember whether it was partly in the Bank of Detroit and partly in the Guardian. There was a substantial writedown—several hundred thousand dollars, as I remember.

Senator COUZENS. Only several hundred thousand dollars? Is that all?

Mr. LORD. Both banks were examined by the Banking Department, and whatever writeoff they made, they made in accordance with their instructions.

Mr. PECORA. As a result of this reduction of the capital of the combined banks from \$9,000,000 to \$5,000,000, did not that correspondingly reduce the amount of liability under the double assessment of the stockholders?

Mr. LORD. Yes, it did.

Mr. PECORA. And that also deprived the depositors of the bank of that additional margin of safety?

Mr. LORD. I assume it did; yes, sir.

Mr. PECORA. Is that the transaction that is referred to on page 11 of the printed annual report for the year 1930 issued by the Group Co. to its stockholders, and which is introduced in evidence here as Committee's Exhibit No. 36 of December 20, 1933, and which I will read to you as follows [reading]:

July 1, 1930, upon the consolidation of the Guardian Detroit Bank and the Bank of Detroit, \$2,500,000 from the combined capital of these two banks was transferred to the Group Co. This amount, invested in highly liquid securities, for the most part United States Government bonds, is now held as a directly owned asset of the Group Co.

Mr. LORD. Yes.

Senator COUZENS. Were those securities later used for the—

Mr. LORD. Later used for the protection of the loans of the securities company. I say they were. I do not know how much of the liquid funds of the Group Co. were used for that purpose. It is very difficult to earmark it.

Mr. PECORA. Mr. Wilkin testified a few minutes ago, and I presume you heard his testimony?

Mr. LORD. I did, sir.

Mr. PECORA. He gave some testimony about a set-up, as I believe he called it, of the Group Co., which forbade the Group Co. from exercising any domination or control over the various unit banks of the group.

Mr. LORD. I heard it.

Mr. PECORA. What was that set-up that he referred to?

Mr. LORD. I did not know what he was talking about, except, as I recall it, in the opinion of the attorney general of Michigan, in regard to the right of the Group Co. to own bank stock, as I remember it, he said in the opinion that so long as they did not operate the banks they were entitled under the law to own such stocks. I presume that is what Mr. Wilkin was referring to. I may not have the exact language of the attorney general's opinion. I have not a copy of the opinion here. In other words, the Group Co. was organized under the general corporation laws of the State, and not under the banking laws of the State, Mr. Pecora.

Mr. PECORA. Was not that opinion of the attorney general of the State of Michigan rendered somewhat under these circumstances: The Group Co. had been organized under the laws of the State of Michigan, but before its organization some consideration was given to the question of whether or not such corporation, which was to acquire and own the capital stock of various banks, could actually be set up under the laws of the State of Michigan?

Mr. LORD. I do not recall what the circumstance was of the attorney general rendering that opinion. That is something that came into the legal end of it, Mr. Bodman's end of our organization. I cannot tell you the reason that question was raised, or who raised it.

Mr. PECORA. Do you recall that the question was raised, as to whether or not a holding company, under the laws of the State of Michigan, could acquire, as such, the capital stock of banks, because of the fact that the holding company was not engaged in the same kind of business as banks were engaged in?

Mr. LORD. I think that is just what we are talking about.

Mr. PECORA. Yes.

Mr. LORD. I do not know who raised the question, or the occasion for its being raised.

Mr. PECORA. You do recall that the question was raised in some form or other, by somebody or other?

Mr. LORD. Yes; I do.

Mr. PECORA. And the attorney general rendered an opinion, in substance, to the effect that this Group Co., this holding company, which already had been incorporated, could acquire the capital stock of the banks, but should not operate them?

Mr. LORD. That is my understanding, a layman's understanding of a legal matter, Mr. Pecora.

Mr. PECORA. Do you recall that subsequent to the rendition of that opinion by the attorney general an amendment to the corporation laws of the State of Michigan was enacted by the Michigan State Legislature so as to remove all doubt about the question of whether or not the Group Co. could acquire and own the stock of these banks?

Mr. LORD. I do not. I do not recall anything about it.

Mr. PECORA. You said you did not know what Mr. Wilkin had in mind when he testified this afternoon about the set-up of the Group Co.

Mr. LORD. I did not know what he meant by "set-up." It was the policy of the group, as stated many times, for the unit banks to be permitted to operate their own business through their own board of directors and officers.

Mr. PECORA. I show you what purports to be a photostatic reproduction of a printed document, under the printed heading of "Guardian Detroit Union Group, Inc.", and entitled "Bulletin No. 1, January 2, 1930—Confidential; for official use only." Will you look at it and tell me if you recognize it to be a true and correct copy of such a bulletin issued by the Group Co. for the confidential use and information of its officers?

Mr. LORD (after examining papers). Yes; that looks familiar.

Mr. PECORA. I offer it in evidence, but in view of its voluminous character I do not think it is necessary to spread it in full on the minutes. It will refer to certain excerpts from it.

The CHAIRMAN. Let it be admitted and filed.

(Bull. no. 2, Jan. 2, 1930, Guardian Detroit Union Group, Inc., was received in evidence, marked "Committee's Exhibit No. 106, January 24, 1934", and the same is not printed in full here for the reasons stated above.)

Mr. PECORA. Before I proceed to question you about this bulletin, which has been received in evidence as committee's exhibit no. 106 of this date, let me ask you whether or not, in connection with that merger of the Guardian Detroit Bank with the Bank of Detroit, that was consummated on June 30, 1930, any statement was ever issued, or information given to the stockholders of those two banks, with regard to the action of the group in taking this \$2,500,000 in Government bonds out of the combined capital resources of the bank, and turning it over the Group Co.?

Mr. LORD. Mr. Pecora, I think there was a public announcement in the newspaper at the time of the consolidation, as to the capital structure of the new bank. There was no direct letter sent to the depositors.

Mr. PECORA. In that announcement was the statement made that \$2,500,000 of Government bonds were given to the Group Co. out of the combined capital resources of those two banks?

Mr. LORD. No, sir, but the published statement of the combined bank, which must have followed after June 30, or certainly in the September call, would have shown the new capitalization, from which it was evident that the capital structure had been reduced by \$2,500,000.

Mr. PECORA. The fact of the reduction of the capital structure would be evident, but it would not be evident from any statement published that that \$2,500,000 went to the Group Co.

Mr. LORD. Not to the depositor, unless he got one of the annual reports.

Mr. PECORA. Was it stated in any annual report?

Mr. LORD. In the 1930 report, does it not state it?

Mr. PECORA. That is the report of the Group Co. to its stockholders, not a report to the depositors.

Mr. LORD. That is what I was referring to.

Mr. PECORA. You were referring to the report of the Group Co. to its stockholders?

Mr. LORD. Yes.

Mr. PECORA. Not to any report given to the depositors of those two banks.

I want to read the following excerpt from this bulletin no. 1, received in evidence as committee's exhibit no. 106. The bulletin is captioned "Basic Policies". [Reading:]

President Hoover, in his recent message to Congress, referred to the Group Banking Movement as "A groping for stronger support to the banks and a more secure basis for these institutions."

Parenthetically, I want to say that the word here appears "groping". Probably it was intended to be "grouping".

Mr. LORD. No; I think it was "groping".

Mr. PECORA. Was it "groping"?

Mr. LORD. I think so.

Mr. PECORA. It was a well-chosen word, then.

Senator COUZENS. Do you know who wrote that, Mr. Lord?

Mr. LORD. Who wrote that bulletin?

Senator COUZENS. Yes.

Mr. LORD. I think it came out of Mr. Walsh's department. He handled most of the publicity. I do not recall who wrote it all.

Senator COUZENS. Did you participate in the writing?

Mr. LORD. I went over it after it was prepared.

Senator COUZENS. I thought I recognized the word "groping" in there because of the testimony you gave before the committee of the House of Representatives.

Mr. PECORA. To read further from this excerpt [reading]:

However, he also raised the question as to whether the development of group banking might not (concentrate control of credit) and enunciated as one of the fundamentals of the American credit system that "credit which is based upon banking deposits should be controlled by persons within those areas which furnished these profits, and thus be subject to the restraints of local interest and public opinion in these areas."

The President has stated briefly but completely the advantages to be sought and the disadvantages to be avoided in any program of group banking.

In this bulletin are included various extracts or excerpts from the by-laws of the Group Co., I notice.

Mr. LORD. I think so.

Mr. PECORA. And these quotations from the bylaws of the Group Co. relate to bylaws which declare, as a principle, that the unit banks of the group should be left to the management of their own individual policies and affairs, do they not?

Mr. LORD. They do, sir.

Mr. PECORA. So, with that general statement of the nature of these bylaws, I will not go further into any specific reference to the text of the bylaws.

Now, as a matter of fact, Mr. Lord, were the various banking units permitted in all instances to direct and control and shape their own policies?

Mr. LORD. I think they were, sir.

Mr. PECORA. Including the selection of officers and the election of directors?

Mr. LORD. We were frequently consulted—in fact, almost invariably consulted—when there were vacancies on the board, by the local board.

Mr. PECORA. Did the group officers at times advance suggestions to the different unit banks, without waiting for a request?

Mr. LORD. They might have done it.

Mr. PECORA. Do you know whether the group officers at any time did it?

Mr. LORD. I cannot answer that, sir. Some of them may have done it.

Mr. PECORA. Would you not be likely to know if that was done?

Mr. LORD. I might not. Some other executive officer might have been handling a particular situation.

Mr. PECORA. Let me show you what purports to be a photostatic reproduction of a letter addressed to you as president of the *Guardian Detroit Group* by the cashier of the *Bank of Hamtramck*, dated January 6, 1930. Will you look at it and tell me if you recognize it to be a true and correct copy of a letter received by you on or about the date which that copy bears?

Mr. LORD (after examining paper). Yes, sir.

Mr. PECORA. I offer that in evidence.

The CHAIRMAN. Let it be admitted and entered on the record.

(Letter Jan. 6, 1930, cashier, *Bank of Hamtramck*, to Lord, was received in evidence, marked "Committee's Exhibit 107, Jan. 24, 1934, and the same was subsequently read into the record by Mr. Pecora.)

Mr. LORD. May I see the letter a minute?

(The document was handed to Mr. Lord.)

Mr. PECORA. The letter received in evidence as exhibit no. 107 reads as follows, on the letterhead of the *Bank of Hamtramck*, Hamtramck, Mich., dated January 6, 1930 [reading]:

Mr. ROBERT O. LORD,
President *Guardian Detroit Group*,
Detroit, Mich.

DEAR SIR: We have your letter of December 31, addressed to Mr. John F. Koenig, president of our bank, with whom the writer has discussed the matter of the stockholders' meeting to be held on the second Tuesday in January. Please be advised that the directors whom we wish to be elected are as follows: John F. Koenig, Leopold Koscinski, Hon. Theodore J. Richter, Edwin R. Monnig, John A. Frosfield, and Wm. E. Dingman.

Yours very truly,

W. E. DINGMAN, Cashier.

Now, I notice in the letter that following the name in the last paragraph of Leopold Koscinski, the typewritten portion of the letter shows the name of another gentleman, B. H. Manning. Ap-

parently the form of the letter received by you included the name of Mr. Manning as one of the gentlemen whom they wanted to elect as a director.

Mr. LORD. It looks like it; yes.

Mr. PECORA. Do you know who scrolled out Mr. Manning's name on this letter and wrote on the right-hand margin of the letter alongside of Mr. Manning's name the name "Charles Adams"?

Mr. LORD. I do not. I do not recognize the writing.

Mr. PECORA. You do not recognize the handwriting. Does not that indicate that when this letter was received by you as president of the Group either you or somebody in the Group Co. suggested substitution of Charles Adams for B. H. Manning as a director?

Mr. LORD. Mr. Pecora, perhaps I can clarify that in this way: The Bank of Hamtramck, which was owned about 54 or 56 percent by the Group, was an institution that came in through the acquisition of the Union Commerce Corporation. Mr. B. H. Manning was a representative on that board put there by the Union Commerce Corporation and was an officer of the Union Trust Co., and at that time, as I recall it, Mr. Manning was in process of leaving the Trust Co. I suppose whoever wrote the name "Charles Adams" substituted Mr. Adams for Mr. Manning in view of that fact. Mr. Manning afterward killed himself and never did serve. I don't know whose writing it was. I don't recognize it.

Mr. PECORA. Now, let us see if this photostatic copy of what purports to be a letter addressed to Mr. Dingman, who was the writer of the letter just read in evidence, does not serve to refresh your recollection as to who suggested that Adams be substituted for Manning. [Handing document to Mr. Lord.] Will you look at that photostatic reproduction of such letter and tell me if you recognize it as being a true and correct copy of a letter sent to Mr. Dingman in behalf of the president of the Group Co.?

Mr. LORD. Yes; I assume that is correct.

Mr. PECORA. I offer it in evidence.

The CHAIRMAN. Let it be admitted.

(Letter dated Jan. 9, 1930, from Robert O. Lord to W. E. Dingman, was designated "Committee Exhibit No. 108, Jan. 23, 1934," and same appears in full immediately following, where read by Mr. Pecora.)

Mr. PECORA. As a matter of fact, you sent that letter to Mr. Dingman, didn't you, as the president of your company?

Mr. LORD. I assume so; yes.

Mr. PECORA. The letter received in evidence as Committee's Exhibit 108 reads as follows [reading]:

JANUARY 9, 1930.

Mr. W. E. DINGMAN,
Cashier, Bank of Hamtramck,
Hamtramck, Mich.

DEAR MR. DINGMAN: Replying to your letter of January 6, in respect of the board of directors of the Bank of Hamtramck to be elected for the ensuing year, it has been suggested that Mr. Charles H. Adams of the Union Trust Co. be substituted for Mr. B. H. Manning.

It is the intention of the Guardian Detroit Union Group, Inc., to have Mr. Adams attend your annual meeting on Tuesday next and vote the shares now owned by the group.

We trust this arrangement is satisfactory to you.

Yours very truly,

GUARDIAN DETROIT UNION GROUP, INC.

By you, I presume, as president. There is a facsimile of your signature on this copy.

Now, as bearing further on the question of whether or not the Group Co. was responsible for changes in personnel of officers of any of the Group banks, as well as in its board of directors, I want to show you what purports to be a photostatic reproduction of a so-called "Intragroup memorandum" from B. K. Patterson to J. N. Stalker, dated December 10, 1930, in the lower left-hand corner of which is the inscription reading "Copy to R. O. Lord." Will you look at it and tell me if you recognize the copy as a true and correct memorandum sent by Mr. Patterson to Mr. Stalker and copy also sent to you?

MR. LORD. I do not recollect it in detail, but I assume I saw it. It has my name on it.

MR. PECORA. I offer it in evidence.

THE CHAIRMAN. Let it be admitted.

(Intragroup memorandum, dated Dec. 10, 1930, from B. K. Patterson to J. N. Stalker, was designated "Committee Exhibit No. 109, Jan. 23, 1934", and same appears in full immediately following where read by Mr. Pecora.)

MR. PECORA. The memorandum received in evidence as committee's exhibit no. 109, this date, reads as follows, on the letterhead of Guardian Detroit Union Group, Inc., entitled "Intra-Group Memorandum, to J. N. Stalker, from B. K. Patterson", dated December 10, 1930 [reading]:

For your confidential information, there were certain transactions which took place in the Jefferson Savings Bank, of Grosse Pointe, which became decidedly embarrassing to several of the directors, and it looks as though in time someone else will have to be selected for the presidency of the bank. During the time we are straightening out affairs we are working close to Mr. Jugh J. Ferry, whom you know to be another director of the bank, but meanwhile I learn that Mr. Louis A. DeHayes, a very desirable director and one whom we may hope to be the future president of the bank, has resigned his directorship, and the first intimation we had of Mr. DeHayes' resignation was contained in a memorandum dated December 9, addressed to Mr. Maxwell from your H. L. Stiff, in which he says " * * * and pursuant to instructions of Mr. Bowlus, we delivered to him the 10 shares of group stock."

In view of the mix-up at Jefferson for the moment, it was decidedly not the proper thing to do to allow Mr. DeHayes to resign, nor to deliver to him his 10 shares of group stock, at least until Mr. Lord, myself, or Mr. Maxwell had been consulted.

Now, in order to get Mr. DeHayes back in the fold, we will have to work through Mr. Ferry and have the 10 shares of group stock redeposited.

Don't you think it could be arranged to get in touch with either Mr. Maxwell or myself before group stock deposited to support directors' qualifying shares, is released? I would greatly appreciate it if some such arrangement could be made. Will you kindly advise. I will appreciate it also if you will treat this memorandum as strictly confidential.

BKP H

Copy to R. O. Lord.

Now, Mr. Lord, do you recall the matter referred to in this memorandum?

MR. LORD. You mean about the mix-up at Jefferson?

MR. PECORA. About the mix-up at Jefferson and about the references to getting Mr. DeHayes back.

MR. LORD. I recall it rather vaguely. I never knew Mr. DeHayes. A gentleman by the name of Julius Burns, as I recall it, was presi-

dent of that bank, and as I remember it, he owned the bank's quarters, and there was some mix-up on the option of a lease. Mr. Burns also was interested in another bank up further along the shore, and as I remember it, it had some of the Jefferson deposits there which we did not want there. The bank afterwards closed, and I do not recall what particular mix-up they are speaking about, Mr. Pecora. But I know Mr. DeHayes was considered a valuable director for that bank, and as the letter states, we were anxious to keep him in on the board. Mr. Ferry was at that time a director of the Jefferson Savings Bank.

Mr. PECORA. Do you note the reference in this memorandum reading as follows:

But meanwhile I learned that Mr. Louis A. DeHayes, a very desirable director and one whom we may hope to be the future president of the bank, has resigned his directorship.

Mr. LORD. Well, I think that is a natural hope, as long as they were not satisfied with their own board with Mr. Burns as president, and he and other directors considered Mr. DeHayes as the most desirable man for the president of the bank.

Mr. PECORA. Mr. Patterson at the time he wrote this memorandum was a vice president of the Group Co., wasn't he?

Mr. LORD. I think he was.

Mr. PECORA. On December 10, 1930?

Mr. LORD. I think he had that title.

Mr. PECORA. And Mr. J. N. Stalker, to whom this intragroup memorandum was addressed, was also an executive officer of the Group Co.?

Mr. LORD. In 1930?

Mr. PECORA. December 10, 1930.

Mr. LORD. Inactive, I should say.

Mr. PECORA. Inactive?

Mr. LORD. Inactive in the group.

Mr. PECORA. Inactive in the group?

Mr. LORD. Mr. Stalker was never active as an officer. He was active as an officer of the Union Guardian Trust Co.

Senator COUZENS. Why would they direct that memorandum to him, then?

Mr. LORD. Because the Jefferson Savings Bank came in through the Union Commerce Corporation, and they knew the directors and personnel very much better than anyone in the Guardian Group. Mr. Stalker was at that time a vice president of the Group Co., according to the '29 report.

Mr. PECORA. He was vice president of the Group Co.?

Mr. LORD. Yes; he was.

Mr. PECORA. Yes; he appears in the annual report of the Group Co. for the year 1930 as not only vice president but a director—

Mr. LORD. He was an active vice president.

Mr. PECORA. And a member of the executive committee of the board of the Group Co.

Mr. LORD. That is right.

Mr. PECORA. The "we" referred to in that extract of this letter means certain officers of the Group Co.?

Mr. LORD. I don't know who it refers to, because I never knew Mr. DeHayes.

Mr. PECORA. As further bearing on this subject, let me show you what purports to be a photostatic reproduction of another so-called "intragroup memorandum" addressed by Mr. B. K. Patterson to Robert O. Lord, dated December 8, 1930. Will you look at it and tell me if you recognize it to be a true and correct copy of such memorandum that you received on or about that date from Mr. Patterson?

Mr. LORD. Yes: I will accept it as correct.

Mr. PECORA. I offer it in evidence.

The CHAIRMAN. Let it be admitted.

(Intragroup memorandum dated Dec. 8, 1930, from B. K. Patterson to Robert O. Lord, was thereupon designated "Committee's Exhibit No. 110, Jan. 23, 1934", and appears in the record in full immediately following, where read by Mr. Pecora.)

Mr. PECORA. The exhibit received in evidence as exhibit no. 110 of this date reads as follows. It is on the letterhead of Guardian Detroit Union Group, Inc., entitled "Intragroup memorandum, to Robert O. Lord from B. K. Patterson", dated December 8, 1930. [Reading:]

The Lochmoor C.D.'s are now at \$35,000, \$10,000 having been loaned the Lochmoor Bank November 29, 12 days after Bryan's visit.

Mr. Bryan spent the morning at Jefferson today. They claim that a \$10,000 deposit from some township treasurer will be made at Lochmoor very soon and the indebtedness at Jefferson reduced that much. However, Bryan is to get the directors of the Lochmoor Bank together this evening or Tuesday and get from them an authorization for that bank to borrow from Jefferson and put the present C.D.'s in note form, the note to be drawn on demand. Bryan is also to inspect the commercial loans and real-estate mortgage loans at Lochmoor and select collateral for the note at Jefferson, about on a 2-for-1 basis and select the best call paper he can find. Further, he is going to attempt to get the directors of Lochmoor to endorse the note. We will then place the note on a definite liquidation basis, tentatively not beyond January 15, but we may have to extend this to February 15 when another 30 days rolls around. Bryan intends to stay right on this job until it is entirely finished.

Now I want you to note particularly this expression:

Myself and Bryan have kept Mr. Ferry in touch with affairs and our plans. He is thoroughly disgusted with Berns and Webster and several other directors and frankly states that the whole board should be revamped promptly. I think so too—particularly as regards Berns, and I think that another president for the bank should be selected for 1931. Mr. Ferry believed Mr. Louis A. DeHayes could be induced to accept the presidency of the bank. He advised Mr. DeHayes is the president of the Sterling Coal Co., could be rated at worth about a million dollars, of a very conservative turn of mind and equally well acquainted with the customers and conditions in this vicinity as is Berns. Probably that is the only major change which should be made on the board at one time, with this small exception: If Webster is to continue he should be made to resign his directorate at Lochmoor.

Mr. Ferry discussed with myself and Bryan the location of the bank. He is very much against additional expenditures or additional space and I believe we all agree that that feature is "out" now. Mr. Ferry believes that it might be advisable to continue to occupy the present location until the lease expires, but that when this occurs to move the bank to the location at Mack and Maryland where we would have no rent, adequate facilities and reduced overhead which would compensate for a probable loss in deposits in moving from Beaconsfield and Jefferson.

You have mentioned heretofore in the course of your testimony the name of Mr. R. Perry Shorts, who was president of that banking unit known as the Second National Bank & Trust Co. of Saginaw.

I now show you what purports to be a photostatic reproduction of a letter purported to have been sent by Mr. Shorts as president of the Second National Bank & Trust Co. of Saginaw to Mr. S. Sloan Colt, president of the Bankers Trust Co., dated March 3, 1933, which, as you will recall, was after the banks were closed as a result of the decree of the Governor of Michigan last spring. Will you look at this photostatic copy of such letter and tell us if you recognize the signature thereon to be that of Mr. R. Perry Shorts? [After a pause.] I merely asked you to look at the signature, Mr. Lord, to see if you identify it.

Mr. LORD. Yes, I think it is the signature.

Mr. PECORA. I offer that in evidence.

The CHAIRMAN. Let it be admitted.

(Letter dated Mar. 3, 1933, from R. Perry Shorts to S. Sloan Colt, was thereupon designated "Committee Exhibit No. 111, Jan. 23, 1934", a portion of which appears in the record immediately following, where read by Mr. Pecora.)

Mr. PECORA. I do not think it is necessary to spread this document on the record, but I do want to read a certain portion therefrom, as follows. The letter is dated March 3, 1933, addressed to S. Sloan Colt, President, Bankers Trust Co., New York, N.Y. It contains the following provision, among others [reading]:

I have resisted every effort on the part of the present officers of the Group Co. to induce us to continue as a unit of the Group Holding Co. and thus rehabilitate the organization through increased efficiency, etc., in the hope of ultimately working out something for the group picture. We do not want any more Detroit efficiency or overhead organization loaded onto our institution. What we need right now is money and no theoretical ideas promulgated by men who are largely responsible for our present predicament. We want to row our own boat without any towline attached to Detroit, and we feel that in the present financial storm, with the big ship in Detroit rapidly sinking, it is up to them to cut the towline and let us paddle our own canoe. Furthermore, the organization of a new bank to take over our bank would be a disastrous and foolish procedure. We have a very large and profitable trust department in our bank and to transfer these court trusts from the old institution to the new would require court action, approval of beneficiaries affected, etc., and enough ordinary red tape to completely entangle anyone, and with little promise of success. What court would want to transfer a sacred trust held for the benefit of widows and children from one institution, which had gotten into financial difficulties, to another institution under the same management.

Now, the "big ship" at Detroit referred to in this letter in the following excerpt undoubtedly alluded to the Group Co., did it not? I will read the excerpt [reading]:

We want to row our own boat without any towline attached to Detroit, and we feel that in the present financial storm, with the big ship in Detroit rapidly sinking, it is up to them to cut the towline and let us paddle our own canoe.

Mr. LORD. I assume that is what he meant.

Senator COUZENS. Why was that addressed to Mr. Colt?

Mr. LORD. I haven't any idea. I never saw the letter.

Senator COUZENS. He had no interest in the group, did he?

Mr. LORD. Except his bank had loaned the group money.

Mr. PECORA. Oh, yes; the Bankers Trust Co. had made a loan of \$7,000,000 to the Group Co., had it not?

Mr. LORD. That is correct.

Senator COUZENS. Yes; but I mean they had no control of the management, did they?

Mr. LORD. I might mention in that connection that Mr. Perry Shorts was chairman of the executive committee of the Group Co.

Senator COUZENS. How long had he been chairman?

Mr. LORD. A year.

Mr. PECORA. Was this the first time you learned of the opinion which Mr. Shorts expressed regarding the management of the group?

Mr. LORD. I think so.

Mr. PECORA. Whom do you suppose he referred to when he said in this letter, "What we need right now is money and no theoretical ideas promulgated by men who are largely responsible for our present predicament"?

Mr. LORD. I have no idea, unless he is speaking of the whole board.

Mr. PECORA. Of the Group Co.?

Mr. LORD. Yes.

Mr. PECORA. I show you what purports to be an intragroup memorandum addressed by you, under date of December 22, 1930. Will you look at it and tell me if you recognize it as such an intragroup memorandum which you caused to be sent out to the directors of the group on the subject of confidential information for directors?

Mr. LORD. Yes, sir.

Mr. PECORA. I offer it in evidence, but it need not be spread in full on the record.

(Photostatic copy of intragroup memorandum dated Dec. 22, 1930, addressed by Mr. Lord to the directors of the group, was received in evidence, marked "Committee's Exhibit No. 112, January 23, 1934.")

Mr. PECORA. In this intragroup memorandum addressed by you to the directors, marked in evidence as committee exhibit no. 112, appears the following statement referring to the Union Guardian Trust Co. [reading]:

In August the Trust Co. set up a special reserve of \$100,000 to cover possible losses on "other real estate." Up to date the sales of real estate acquired under foreclosure have resulted in a moderate profit, and this \$100,000 special reserve on December 17 showed a balance of \$109,600. Including this reserve, the Trust Co. has "hidden assets" and reserves which aggregate nearly \$900,000.

What was this item of "hidden assets" referred to?

Mr. LORD. I cannot tell you now, Mr. Pecora. That paragraph and the information contained in it came, as I recall it, from Mr. Stalker, of the Union Guardian Trust Co.; and in getting out the memorandum I tried to cover all the different phases of the situation. I cannot give you the details at the present time. I was never active in the Trust Co.

Mr. PECORA. But this memorandum is dated December 22, 1930, and at that time you were the executive head of the Group Co.

Mr. LORD. Yes; but I was never active as an officer in the Trust Co.; and the information and the figures had come to me from the units themselves.

Mr. PECORA. In view of the fact that special mention was made of these hidden assets in this memorandum that you prepared, can you not tell us what you know about those hidden assets?

Mr. LORD. I have no idea what they were. That information, as I say, came from the Trust Co.

Mr. PECORA. Why should the Trust Co. have had any hidden assets?

Mr. LORD. Reserves.

Mr. PECORA. Why should they be hidden?

Mr. LORD. Items carried at less than their real worth—I suppose that is the answer.

Mr. PECORA. Why should they be hidden?

Mr. LORD. Many banking institutions carry assets that are written down and are worth a great deal more, not on their books at that time, than market value.

Mr. PECORA. From whom were those assets and reserves of nearly \$900,000 hidden?

Mr. LORD. They are part of the statement—in the statement; they are not hidden from anybody.

Mr. PECORA. Why do you refer to them as hidden assets? I am simply questioning you about language which you employed in your own memorandum to the directors.

Mr. LORD. That is a common term. For instance, many banks, where they write off losses and get recoveries, do not put the recoveries back on their books—simply carry them at a nominal figure, but keep those reserved to take care of any possible future losses. I assume that is what they were.

Mr. PECORA. Do you know of any reason why they should not be clearly set forth?

Mr. LORD. No particular reason except it was the conservative thing to do, to keep them.

Mr. PECORA. In this exhibit no. 112 appears also the following statement under the caption of "Earnings, confidential" [reading]:

While it is the usual policy of banking institutions to make only annual reports to the stockholders, we are giving you, as a director, figures for 11 months with the understanding that they will, of course, be treated in confidence. The banks and trust companies alone for 11 months showed about \$26,255,000 gross income and about \$5,240,000 net operating profits prior to reserves. Substantial reserves totaling more than \$1,500,000 have been set up in the various banks during this period, leaving something over \$3,700,000 after these reserves.

What was the occasion for giving to the directors at that time confidential information as to the earnings?

Mr. LORD. Don't you think as directors they are entitled to have it? I do.

Mr. PECORA. Why were they not given in connection with that confidential information the figures showing the condition of those units of the Group Co. which were not banking units or trust companies?

Mr. LORD. In connection with this report?

Mr. PECORA. Yes.

Mr. LORD. At meetings of the directors of the Group Co. there was a balance sheet and earning figures and statement of condition of every unit, a large book in which on the left hand side were the items that go to make up the balance sheet. There were 8 or 9 columns, and the figures of every banking unit were there. That book was at every directors' meeting and the figures were read off and discussed, and later they were put in separate books so that each director had a copy. But the book itself was always there at the directors' meetings.

Mr. PECORA. You were in attendance before this committee last Friday, were you not, when Mr. Bodman was testifying?

Mr. LORD. I was.

Mr. PECORA. Did you hear the testimony of Mr. Bodman in connection with which there was introduced in evidence here as an exhibit a letter which he addressed to you as president of the Group Co., in which he criticized the way that information was given to members of the executive committee of the board of directors of the Group Co. at their various meetings?

Mr. LORD. I heard it; yes, sir. I think it was a very constructive criticism, and after that we tried to follow his ideas.

Mr. PECORA. Were his ideas followed?

Mr. LORD. Yes, sir; they were. Every member of the board and every member of the executive committee later had a book right in front of him with a statement of every single company. Instead of having Patterson stand up with the book with all these statements and read off the figures, which Mr. Bodman said in his memorandum were very difficult to keep in mind, we put before each member of the executive committee or the board a book which contained all of these things.

Mr. PECORA. As I recall that exhibit, which consisted of his letter to you containing the criticism, it was dated some time during the latter part of the year 1931.

Mr. LORD. I believe so; yes.

Mr. PECORA. I think it was in August 1931 from my recollection of the evidence now. Why were those meetings conducted in a fashion that evoked that kind of criticism?

Mr. LORD. I suppose, because the information was given verbally instead of having the information before a man so he could visualize it.

Mr. PECORA. The criticism extended to something more than that, did it not?

Mr. LORD. Well, I do not recall the particular point you have in mind.

Mr. PECORA. In this memorandum you sent to the directors, marked "Committee Exhibit 112", you say further as follows (reading):

Our Securities Companies, in keeping with other securities companies, will show on December 31, 1930, a substantial depreciation in the book cost of their inventory as against market values. Exclusive of this shrinkage, these companies will make an operating profit for the year.

The shrinkage, or the amount of the shrinkage, is nowhere referred to in this memorandum.

Mr. LORD. You could not tell what the figures were going to be at December 31.

Mr. PECORA. This memorandum was dated December 22, 1930, 9 days before the end of the year.

Mr. LORD. I know; but it is customary in the securities business to write your inventory down at stated periods, usually at the end of the year, and on December 22 there was no attempt or effort to write them down as of—

Mr. PECORA. Did the shrinkage exceed the operating profits of the year?

Mr. LORD. I assume it did, very substantially.

Mr. PECORA. I note the following statement in this memorandum which is marked "Committee Exhibit 112" (reading):

Through the transfer of the \$5,000,000 capital stock of the New Union Building Company (which building is 93% rented), formerly owned by the Union Trust Company, to ownership by the Group Company, it is estimated that an ultimate saving of more than \$150,000 per annum in taxes will be made. By this transaction the directly owned assets of the Group Company were increased by \$5,000,000, while there was a corresponding decrease of this same amount in the capital structure of the Union Guardian Trust Company.

What does that relate to?

Mr. LORD. I testified as to that previously, Mr. Pecora, and stated I estimated the saving at \$50,000. I had forgotten the figure; but that I suppose is more accurate because that was given by our tax man. It refers to the liquidating dividend by the Trust Co. to the Group Co. in the form of stock in the new Union Building Co. which was carried on the books at the Union Guardian Trust Co. at approximately \$5,000,000, as I recall it.

Mr. PECORA. In other words, this refers to that process by which the Group Co. obtained the ownership or control of \$5,000,000 of assets out of the capital structure of the Union Guardian Trust Co.?

Mr. LORD. That is correct.

Mr. PECORA. And to that extent, to the extent of the reduction of the capital assets of the Union Guardian Trust Co. by \$5,000,000, that amount of security for depositors was taken out of the reach of the depositors of the Trust Co.?

Mr. LORD. If it had any value; yes, sir. It was an equity.

Mr. PECORA. It is spoken of here as something of value, because the building in question is referred to as being 93 percent rented.

Mr. LORD. That is correct.

Mr. PECORA. So by that process the assets of the Group Co. as a separate legal entity from the Union Guardian Trust Co. were increased by \$5,000,000, and the assets of the Union Guardian Trust Co. were depleted by the same amount?

Mr. LORD. That is correct.

Mr. PECORA. All to the disadvantage of the stockholders of the Trust Co. and the other creditors?

Mr. LORD. I am not sure that it was any disadvantage.

Mr. PECORA. They would have that much less available to them.

Mr. LORD. The stockholders?

Mr. PECORA. No; the depositors.

Mr. LORD. Yes.

Mr. PECORA. That is no disadvantage?

Mr. LORD. The Trust Co. had sufficient capital left—

Mr. PECORA. I say, that is no disadvantage, in your opinion?

Mr. LORD. I assume it is a disadvantage to take anything out.

Mr. PECORA. Reference has been made in the testimony heretofore to a corporation called Congress Corporation. Will you tell us briefly what you know about the Congress Corporation?

Mr. LORD. I know very little about it except that it was a corporation that they organized specifically to handle the lifted-out assets taken out of the various banks.

Mr. PECORA. It was organized at the instance of the Group Co., was it not?

Mr. LORD. It was.

Mr. PECORA. How is it that you know very little about it?

Mr. LORD. I simply knew it was organized for that purpose.

Senator COUZENS. Who are "they"?

Mr. LORD. I think Mr. Bodman handled the legal end of it. They were very anxious to center in a single organization these assets so they could be properly serviced.

Senator COUZENS. Why could they not be serviced in the Group Co.?

Mr. LORD. Because we did not want to institute suits for collection of notes in the name of the Group Co. We thought it wiser to do it in the form of a separate corporation.

Mr. PECORA. Do you know how this Congress Corporation functioned in that respect?

Mr. LORD. I do not know what you mean by functioning.

Mr. PECORA. You told us what you understood the Congress Corporation was organized for.

Mr. LORD. It had a small group of men who spent all their time in trying to collect these lifted-out assets.

Mr. PECORA. Do you know when it was formed?

Mr. LORD. I have not the date, no. My recollection is that it was formed some time in 1932.

Mr. PECORA. June 18, 1932. Is that right?

Mr. LORD. I assume it is.

Mr. PECORA. Will you look at this document which I now show you and which purports to be a photostatic reproduction of an intra-group memorandum on the subject of the Congress Corporation, which came from Mr. R. C. Huelsman, of the group organization, under date of February 25, 1932? Please tell me if you recognize it to be a true and correct copy of a memorandum that passed from Mr. Huelsman to officers of the Group Co.?

Mr. LORD. I assume it is correct.

Mr. PECORA. I offer it in evidence.

(Photostatic copy of intragroup memorandum dated Feb. 25, 1932, from R. C. Huelsman, on the subject of "Congress Corporation" was received in evidence, marked "Committee Exhibit No. 113. Jan. 23, 1934.")

The document received in evidence as committee's exhibit 113 of this date reads as follows [reading]:

COMMITTEE EXHIBIT NO. 113

GUARDIAN DETROIT UNION GROUP
INTRA-GROUP MEMORANDUM
Date 2-25-32.

From: Mr. R. C. Huelsman

Group Company organization.

Subject: Congress Corporation

In discussing with Mr. Patterson certain phases of our Group structure, particularly in connection with the liquidation of some of the companies and in connection with the purchase of assets from some of our banking units, the following plan has suggested itself to us.

In the process of liquidation of these companies and assets, we will probably encounter from time to time contingent liabilities and possibly lawsuits, some of which may involve considerable sums of money. If these companies are merged into the Group Company, or if the assets of such companies are transferred to the Group Company, there is some possibility that such liabilities may also fall to the Group Company. To avoid the possibility of the Group Com-

pany becoming liable for any such contingencies as may arise, the idea developed that it would be better to form a new company with a nominal capital and have this company assume the assets and liabilities of any companies which we wish to liquidate. This company could also purchase assets from the banking units in the Group when necessary. In other words, all liquidation matters and special-loan matters would be handled by this company.

Funds required for the purchase of assets could be obtained by a loan from the Group Company. Salaries of officers and employees assigned to such liquidation and special loan department effort as well as other expenses incurred by them should be paid by the new company. Such expenses should be set out of proceeds of collections received through liquidation of assets. In fact, from time to time there should be dividends available to the Group Company as the result of such liquidation. Such proceeds should of course first be applied against interest and principal indebtedness to the Group Company.

This plan will entirely segregate all of such activities and will avoid the possibility of liability on the part of the Group Company.

The Group Company then becomes purely a holding and group management company which will direct and coordinate the efforts of all the Group units. Eventually, the only items appearing in the Group Company's balance sheet will be its own capital stock and the capital stock of the units which it owns. The Group Company will receive dividends from the units and will pay dividends to the Group stockholder. From the spread between the amount of dividends received and the amounts of dividends paid, it should be enabled to pay its own operating expenses and establish any necessary reserves. Such reserves may be necessary to finance the new company which is to handle liquidating matters.

If this plan is adopted, the present loans which have been made by the Group Company could be continued. The Guardian Detroit Company, Keane, Higbie & Company, Guardian Holding Company, Grand Rapids National Company, Union Company of Detroit and other companies which it is desired to liquidate could be merged into the new company. Possibly the present Guardian Holding Company could be used for this purpose.

As security for funds obtained by the new company from the Group Company, the new company would pledge all of the available assets, accounts receivable, etc. The Group Company in turn would pledge these assets or such of them as might seem necessary against loans which it has outstanding.

Does not this memorandum serve to define rather specifically the purposes for which this Congress Corporation was eventually organized?

Mr. LORD. It certainly defines Mr. Huelsman's idea of it.

Mr. PECORA. Was Mr. Huelsman's idea carried out?

Mr. LORD. I should say to a great extent it was carried out, because I know that the Congress Corporation was servicing the lifted-out assets.

Mr. PECORA. Then if, as you say, this memorandum defines Mr. Muelsman's idea with regard to what should be the purposes and the functions of what became eventually the Congress Corporation, and those ideas were adopted, this memorandum does set forth essentially the purposes for which the Congress Corporation was organized?

Mr. LORD. I think it does, essentially.

Mr. PECORA. From the statements embodied in this memorandum of Mr. Huelsman's it would seem that one of the primary purposes for the creation of the Congress Corporation was to set up a company with only a nominal capital which would take over the task of liquidating whatever slow or undesirable assets might be in any of the unit banks of the Group Co., and, by so doing, keep the Group Co. safe from liability?

Mr. LORD. I do not know what liabilities or contingencies he was referring to, because I know no suits were brought in connection

with it. I assume that the principal function was just what I said—in order to put in one basket and under one control the liquidation of the assets that had been lifted out of the unit banks; not while they were still in the unit banks, but after they had been lifted out.

Mr. PECORA. How were those assets lifted out of the unit banks prior to the incorporation of the Congress Corporation?

Mr. LORD. By the group paying cash for them at the figures at which they stood on the banks' books.

Mr. PECORA. And by so doing the Group Co. assumed certain contingent liabilities?

Mr. LORD. I do not know how you can assume a contingent liability by buying the note of some borrower or some bonds that are in default. I do not know what contingent liabilities he has in mind.

Mr. PECORA. Mr. Huelsman specifically says that—

In the process of liquidation of these companies and assets—

Meaning the Group Co.—

we will probably encounter from time to time contingent liabilities and possibly lawsuits, some of which may involve considerable sums of money.

Mr. LORD. I understand he said it, but I do not know what he was referring to.

Senator COUZENS. Were those assets taken out of your constituent banks at what they cost the constituent banks?

Mr. LORD. As they stood on the books, Senator. They might be written part way down by the time we bought them.

Mr. PECORA. And the funds that the Congress Corporation obtained in order to purchase those assets for the purpose of taking them out of the unit banks were received as loans from the Group Co.?

Mr. LORD. That is correct, sir. That is my understanding of it.

Mr. PECORA. And the Group Co. received as security for those loans these so-called "undesirable assets"?

Mr. LORD. Yes, sir.

Mr. PECORA. By the process of the Group Co. not taking over those undesirable assets directly from the banks, and by the process of the organization of this Congress Corporation to do that specific thing, the Group Co. placed itself in a position where it was free from incurring contingent liabilities referred to by Mr. Huelsman, did it not?

Mr. LORD. I should say that is a legal question. I would think it did; yes.

Mr. PECORA. As a matter of fact, how much of a loss accrued to the Congress Corporation by taking these undesirable assets from the unit banks?

Mr. LORD. I cannot tell you. I have not the figures. They are still working on the liquidation.

Mr. PECORA. Have you no idea at all?

Mr. LORD. I suppose a very substantial loss.

Mr. PECORA. By that how much do you mean?

Mr. LORD. Several millions.

Mr. PECORA. Can you not give it to us more closely than several millions?

Mr. LORD. I cannot. I know that \$8,400,000 of assets were lifted out of the unit banks in a period of 2 or 3 years. How much they have gotten in the way of recoveries or how much there is that is recoverable I do not know.

Senator COUZENS. The group had to borrow the money, however, to lift out those assets?

Mr. LORD. It did. It borrowed the money to protect those banks.

Mr. PECORA. Did you notice this expression of Mr. Huelsman's in this memorandum reading as follows [reading]:

The Group Co. then becomes purely a holding or group management company which will direct and coordinate the efforts of all the group units?

Mr. LORD. I heard it.

Mr. PECORA. Apparently, Mr. Huelsman was of the opinion that the Group Co. was directing and coordinating the efforts of all of the units of the group?

Mr. LORD. He was correct as to coordinating, but not as to directing. What is the date of that, Mr. Pecora?

Mr. PECORA. It is dated February 25, 1932.

Mr. LORD. Well, that was very shortly after Mr. Huelsman came with the Group Co., and probably he wasn't acquainted with the policies of the company at that time.

Mr. PECORA. Well, apparently the fact that he had just come there and that he had become imbued with the idea that the Group Co. was directing the efforts of the various unit banks, was due to the fact that it was so readily apparent even to a casual observer, isn't that it?

Mr. LORD. I don't think so.

Senator COUZENS. Well, Mr. Lord, do you know the difference between coordinating and directing?

Mr. LORD. We tried to confer with the banks and to help them, which I would call coordinating. But directing is what I would call running them.

Senator COUZENS. How can you coordinate if you cannot direct?

Mr. LORD. We can advise.

Senator COUZENS. That is in the nature of advisory work, then?

Mr. LORD. All right.

Senator COUZENS. You are really not capable of coordinating, if you do not direct, as I take it.

Mr. LORD. I think you can help them.

Mr. PECORA. Mr. Lord, I want to show you a typewritten report or statement entitled:

CONGRESS CORPORATION

Assets Purchased from Units

Will you look at it and tell us if you can identify it as being a true and correct statement of the amount of assets purchased from the units by the Congress Corporation at various times?

Mr. LORD. Well, that is the approximate figure. I do not remember each one, whether it is correct, or not.

Mr. PECORA. Is that approximately correct, at least?

Mr. LORD. That is my recollection.

Mr. PECORA. Mr. Chairman, I offer it in evidence.

Senator COUZENS (presiding). Without objection it will be received and placed in the record.

(The statement entitled "Congress Corporation; assets purchased from units", was marked "Committee Exhibit No. 114, January 23, 1934", and will be found at the end of the day's proceedings.)

Mr. PECORA. This statement has been received as committee's exhibit no. 114, and shows that the total amounts paid in the purchase of assets from the different banking units was \$8,414,501.28. Now, Mr. Lord, entirely apart from this statement, when you first appeared before the committee you gave some testimony relative to the approval that Mr. Bonthron, of Price, Waterhouse & Co. had expressed of the form of consolidated statements of conditions which the Guardian Detroit Union Group had issued at various times. Do you recall that?

Mr. LORD. I think the question was, including the consolidated earnings statement, as against the separate statement of the Group Corporation that we were discussing at that time.

Mr. PECORA. And you stated that the method adopted by the Group Co. had received the approval of Mr. Bonthron, and I then asked you to have Mr. Bonthron, or any other representative of Price, Waterhouse & Co. come before this committee to testify to that? Do you remember that request?

Mr. LORD. No. I think you said you might want him. You didn't ask me to get him.

Mr. PECORA. Oh, no. I made the suggestion to you to bring him.

Mr. LORD. Well, I am sorry.

Mr. PECORA. Have you received, since you gave that testimony, a letter from Price, Waterhouse & Co., addressed to you, and dated January 8, 1934, and which letter I now show you?

Mr. LORD. I did. That letter was written to me at my suggestion. When I returned to Detroit after I had testified about that matter, I saw Mr. Bonthron, and he said that apparently there was some misunderstanding on the part of some of his partners as to just what advice they had given us. I then said to Mr. Bonthron: "Will you write me a letter and state exactly what you have done? Then I will be glad to put it before the committee." And this is the letter he wrote. My discussion with Mr. Bonthron was exactly as stated in this letter, as to the propriety and correctness of making a consolidated statement of all the units of the group, including the Group Co. itself. That is the reason for this letter.

Mr. PECORA. In that letter Price, Waterhouse & Co. have expressed the wish that the statement be brought to the attention of his committee.

Mr. LORD. Yes, sir; and that is why I have brought the letter.

Mr. PECORA. In view of that situation, I think the letter should be offered in evidence, Mr. Chairman.

Senator COUZENS (presiding). The letter will be received in evidence.

(A letter dated Jan. 8, 1934, written by Price, Waterhouse & Co., and addressed to Robert O. Lord, Detroit, Mich., was marked "Committee Exhibit No. 115, Jan. 23, 1934", and will be found immediately following where read by Mr. Pecora.)

Mr. PECORA. The letter is on the letterhead of Price, Waterhouse & Co., Penobscot Building, Detroit, and is as follows [reading]:

JANUARY 8, 1934.

Mr. ROBERT O. LORD,
Detroit, Michigan.

DEAR SIR: Our attention has been directed to newspaper accounts of your testimony in Washington on Thursday, January 4, 1934, before the Senate Committee on Stock Exchange Practices in which the statement was made that our Mr. Bonthron approved the form in which the annual accounts of Guardian-Detroit Union Group, Incorporated, and its subsidiary companies were reported to its stockholders.

Since the statement as made by you may be misinterpreted and you have expressed readiness to make further explanations or amplification so that your testimony may be made entirely clear we are addressing this letter to you.

The exact facts are as follows: We have not at any time made any examination of the accounts of the company or any of its subsidiaries, and we therefore have no knowledge of any of the figures contained in the annual reports. The only time that the matter was before us was when you discussed it with Mr. Bonthron about 2 weeks ago. At that time he merely stated that the form of the consolidated statement of earnings, such as was adopted by you in 1929 when the company was formed, was an appropriate statement to the stockholders of the company.

We shall appreciate your bringing this matter promptly to the attention of the chairman of the committee, so that the necessary clarification may be made in the record.

Yours very truly,

PRICE, WATERHOUSE & Co.

Now, Mr. Lord, you have given me a rather voluminous document purporting to be a statement of views and opinions which you were good enough to reduce to writing at a suggestion made by me and attachés of the investigating staff of this committee.

Mr. LORD. Yes, sir.

Mr. PECORA. I show you what purports to be a copy thereof, and ask you if you can identify it as such true and correct copy?

Mr. LORD. It looks like it.

Mr. PECORA. Have you another copy of it?

Mr. LORD. Yes; I have. Do you want another one?

Mr. PECORA. No; this will suffice for me. Now, Mr. Chairman, I offer it in evidence.

Senator COUZENS (presiding). It will be received and spread on the record, if that is what you wish, Mr. Pecora?

Mr. PECORA. No; it is too lengthy, but for the information of the committee I will read a part of it, because it contains what, in my opinion, are very interesting views, and perhaps some members of the committee will want to question Mr. Lord about some of those views.

Senator COUZENS (presiding). The entire statement will be received and marked as an exhibit, and therefore become a part of the records of the subcommittee, without being spread in full upon the record.

(The statement of views and opinions prepared by Robert O. Lord, was marked "Committee Exhibit No. 116, Jan. 23, 1934," and will be held in the files of the subcommittee, only that portion which Mr. Pecora read later on in the proceedings, being spread on the record.)

Mr. PECORA. The first part relates to conversations in which the witness was asked to prepare the statement of recommendations, and so forth, for this subcommittee; and then follow the witness' recommendations, which I will read for the benefit of the members of the committee, as follows:

The business of banking may be divided into four general classifications:

First—Commercial Banking

Second—Savings Banking

Third—Investment Banking

Fourth—Fiduciary or Trust Company Activities

If I sense the needs in these four types of banking and the aims of this Committee and of legislators, it is to provide in their order of importance—

First—Safety of deposits

Second—Ability of financial institutions to function to the greatest possible extent to aid industry, commerce, agriculture, the individual, and the community

Third—Safety of investments and the greatest possible protection to the investor

Fourth—Capable fiduciary management for the conservation and management of the property of estates and individuals.

Banks and Trust Companies may be classified as unit banks, group banks, or branch banks, with a substantial proportion of the institutions in the United States included in each class, and with arguments in favor of each. To attempt to discourse upon the advantages or disadvantages of each of these types would involve an endless discussion.

What we are all of us seeking is a better, stronger, and safer banking structure which can not only function smoothly and effectively in periods of normal business prosperity, but with the strength and flexibility to withstand the shocks of a severe depression and with the ability to contribute its full share toward a recovery in business from the depths of our present depression or any similar one in the future.

It would seem to me that one of the most important steps to be taken would be the inclusion of all banks in the nation in a single system under the national laws and under competent national supervision—operating under one banking law, rather than as at present having 48 separate state banking laws and one national banking law—49 in all.

Possibly the Banking Act of 1933 which, through its guaranty of deposits provisions, forces membership in the Federal Reserve system, is the first step in such direction. The ability of the separate states to tax banks and trust companies incorporated under state laws seems to be one of the principal reasons for the states' objection to a single national system, but this question could undoubtedly be satisfactorily settled by the national government taxing the national banks on an equitable basis and turning over the receipts of some portion of them to the respective states in which the banks are located.

The question of branch banking, within state lines, within trade areas, within Federal Reserve districts, and nation-wide, has been hotly argued for the past three years and longer. The strength of the British and Canadian systems is a strong argument in favor of a nation-wide or even state-wide branch banking. Personally, I believe we shall eventually come to branch banking over extended areas—even though not so far-flung as nation-wide—within the next decade.

The curtailing of some of the functions formerly carried on by banking institutions—and very properly so—has made it increasingly difficult for the bank of small or even moderate size to earn a reasonable return on its invested capital and at the same time set aside ample reserves for losses. A branch with deposits of as small an amount as \$1,000,000 can be made to pay, whereas, as a unit bank, such an amount of deposits makes it difficult if not impossible of operation at a profit. The small community is entitled to the same degree of safety, the same quality of service, and the same ability in management as the large city, and this can more likely be secured through branch banking than through the unit banks. I do not mean in any way to reflect upon the well-run and conservative small bank that is occasionally seen.

Group banking with all its faults and weaknesses has contributed in no small measure to the strength of the banking structure during these past three years. Group banking might be classed as the intermediate step between the unit banking system and branch banking.

The Banking Act of 1933 was a most constructive piece of legislation and without doubt materially strengthened the banking structure of the nation. The complete separation of commercial and investment banking was both wise and necessary, as time will unquestionably prove.

The guaranty of bank deposits by the nation and by the banks subscribing to the Federal Bank Deposit Insurance Corporation is an experiment—probably successful if prosperity returns in the reasonably near future and if government supervision and examination can offset the possibility of additional bank failures in case this depression continues for a further extended period, and the usual mortality due to inefficient management or other causes. If this is to be made permanent, there should be a definitely known and reasonable maximum liability for the guaranteeing banks. For any bank to assume an unknown and unlimited liability for losses occasioned through the fault or mismanagement of other institutions—and not of their own—offers a hazard harmful to the depositor and unfair to the stockholder. Furthermore, if this guaranty should continue indefinitely, it would seem only proper that the Postal Savings System ultimately be abolished and its competition with savings banks be removed.

On November 29, 1933, Mr. Winthrop W. Aldrich presented to your committee a very comprehensive and carefully prepared statement on the Banking Act of 1933 and on certain other phases of the banking situation. His statement contained many suggestions, the value of which this committee undoubtedly recognize. To Mr. Aldrich's suggestions, I might add for your consideration four more, as follows:

(1) That no employee of the Comptroller's Department, of any State Banking Department, of the Examining Department of any bank clearing house association shall borrow from any member bank without the prior written consent of the Governor of the Federal Reserve Bank of the district in which the proposed lending bank is located; nor shall any such employee participate directly or indirectly in syndicates which are offering securities to the public, or in trading accounts or pool operations in securities which are dealt in publicly.

(2) No bank officer or employee shall serve as a director of any corporation other than his own bank without the prior consent of the Board of Directors of his own institution. When such consent has been given, advice thereof shall be sent to the Governor of the Federal Reserve Bank of the district in which such bank is located. The Governor of the Federal Reserve Bank, after receiving such advice, shall have the right to cancel the approval given by the Board of Directors of the institution by which such officer or employee is employed in case, in the opinion of said Governor of the Federal Reserve Bank, it is unwise or against the best interest of the bank that such officer or employee accept such directorship. Promotional schemes of types both good and bad have in the past sought the directorship of men occupying important positions in banking institutions, sometimes with resultant embarrassment or harm to the standing and prestige of the bank itself.

(3) That any director of a national bank or a state bank member of the Federal Reserve System, who shall fail to attend meetings of the Board for a period of four (or six) consecutive months, shall be automatically disqualified and shall cease to be such director; and, furthermore, that such director shall not be qualified for re-election to said Board for a period of six months from the date of his disqualification.

Such a provision, or one similar in tenor would, I believe, assure more regular attendance of bank directors.

(4) It seems to me that one point of criticism, entirely justified, was the form of condensed published statement issued by banks from time to time upon the call of the Comptroller of the Currency or of the State Banking Departments. Necessarily these statements had to be condensed as much as possible, but in most cases they failed to give a really intelligible picture of the facts. Furthermore, the statement of a single day might fail to give the full story. On that particular day a bank might happen to have an

unusual amount of deposits, it might have had very substantial withdrawals in the normal course of business; or, in adjusting its reserve position with the Federal Reserve Bank, it might possibly have made a one-day or a two-day loan. It would seem therefore, that a truer picture could be given to the public if every bank were required to publish not only the figures of a particular date but also, directly alongside of these figures, comparable items showing the average figures for the period from the date of the last preceding published statement. The form of such statement could readily be prepared by the Comptroller's Department or by the Federal Reserve Bank to give the average citizen a reasonably clear picture of the bank and its condition.

I recommend the reduction in the number of members of the Boards of Directors of banks to a point where the Boards are composed of men who can and will give the affairs of the bank their thorough and active attention. Such Board members should be properly compensated and should fully share with the officers of the bank the responsibility of the management. Too often have men been placed upon bank Boards because of the influence of their names and positions rather than for their ability or wisdom in banking affairs. Possibly this cannot be accomplished by any form of legislation. Certainly it could be adopted in policy by the institutions themselves and with resultant improvements in bank management.

In the search for ways and means of strengthening the banking structure of the nation, there have been suggestions for the severance of savings banks from commercial banks, or if trust and fiduciary activities from both commercial and savings banks. While there are many arguments both for and against such procedure, I see no immediate reason for any of these moves. If necessary or advisable, savings assets can be clearly segregated from assets of the commercial banking department. The events of the past two years have proved that savings banks must retain a degree of liquidity just as high if not higher than commercial banks. Savings deposits have proven to be even more likely of withdrawal than commercial deposits at a time when fear and panic prevail. Should nation-wide branch banking be permitted, then these aforementioned activities could profitably and properly be segregated but at present in only the very large cities can there be found sufficient business to support an institution doing only a fiduciary business or only a commercial banking business.

Before closing my comments on the question of commercial and savings banking, I want to take the liberty of issuing a word of warning to the members of this committee whose influence is so powerful in shaping banking legislation. This nation of ours—the most progressive in the world in the development of industry and commerce—was without doubt materially aided along these lines by the courage, foresight, and vision of its bankers. I do not in any way condone the rank and unwarranted speculation of 1928 and 1929, and I am heartily in sympathy with any and all sound legislation. My warning is this: That you cannot legislate brains and ability. Do not inject into the business of banking too much governmental interference for you may stifle initiative and vision to such an extent that the harm to the future growth and development of the business of this country may be vastly greater than the moderate losses taken in a proper banking risk. Bank salaries may have in many cases been too high, but do not by legislation or governmental authority so restrict them that real ability and talent will be driven to other lines of endeavor willing to pay for such ability.

I have already mentioned among the four general classes into which banking may be divided one of the most important—"investment banking"—and in its own proper function it is just as vital to the prosperity and business life of the nation as is either commercial banking or savings banking.

The Securities Act of 1933 passed by Congress on May 27, 1933 was an effort to prevent so far as possible a repetition of the excesses and mistakes that occurred in the securities business in the recent speculative period ending in the Fall of 1929. Apparently and very properly the purpose of the Act is to protect the investor by requiring full and complete publicity of all pertinent facts and likewise to fix responsibility. This should not only afford protection to the investor but also to the honest and conscientious investment banker against unfair competition and practices of unscrupulous promoters and dishonest dealers.

Unfortunately, as the Act was drawn certain provisions are so in need of clarification or are either so unworkable or drastic in their effect as to have exactly the opposite result from the real intention of the law.

There is already evidence that the act is hampering the free flow of capital to industry, thereby retarding the National Recovery Program. As a practical matter, the effect to date has been to almost completely stifle new financing by legitimate business enterprises and seriously interfere with the normal operations of reputable dealers in securities. Underwriting houses have found it impossible, or at least have deemed it inadvisable to make firm commitments in connection with new issues to be registered under the Act. Some corporations faced with the early maturity of an issue of bonds are deeply concerned over their ability to refund the issue through new public financing and as a result face the possibility of receivership. It is probable that there will be an increasing number of such cases. Numerous short-term loans now in commercial banks incurred with the expectation that they would be paid through the marketing of an issue of securities have become frozen loans. This has tied up funds otherwise available for commercial credit and has made the banks more cautious in their lending policies to other business enterprises. Trading has also been seriously retarded in securities which were outstanding when the Act was passed and therefore exempt from registration thereunder.

In addition to the underwriting and distributing of new securities issues, a substantial part of the business of investment dealers has in the past consisted of the purchase and resale of securities already outstanding, which issues the house in question has previously handled. Purchase of these securities from investors desiring to sell them and their redistribution to other investors provides about the only market available for many issues which are not listed on the Exchange. Almost without exception reputable and responsible investment dealers have found it necessary to refuse to give out to customers owning securities such information as the investor in the normal course of business would be entitled to have regarding the Company's operations and earnings, these investment dealers being unwilling to assume the unknown liabilities involved in furnishing information to investors.

While it is conceded that no particular piece of legislation of this type can ever be entirely satisfactory to everyone concerned, without doubt the present Act can and should be reviewed so that its primary purpose can still be carried out and at the same time some of the objectionable features eliminated or modified so as to permit responsible investment dealers to discharge their duties to their customers and to render a satisfactory investment banking business to the corporation whose financing they have handled in the past.

Statements have recently appeared in the press to the effect that there is a more or less concerted strike on the part of investment dealers in a deliberate effort to show that the Securities Act is unworkable to the end that a revision of the Act can be obtained. It would seem to me that these statements are far-fetched and unwarranted. It is, of course, true that both conservative investment dealers and responsible issuers have been reluctant to incur the liabilities involved in doing new financing under the Securities Act in its present form. Unfortunately, it is the new promoters and high speculative companies that have no financial background that find it easiest to comply with the technical requirements of the Act. Many of the largest corporations which now enjoy the highest credit standing would probably find the greatest difficulty in complying with the present law. As a result, most of the issues which have been registered to date with the Federal Trade Commission have consisted of stocks of investment trusts, new mining and oil companies, and new distillery or brewery company.

Similarly, the promotional and financially irresponsible investment dealer has little or nothing to fear from the liabilities imposed by the Act and investors are not likely to find such protection offered by the Act in case they buy securities from this class of dealer. On the other hand, the most conservative and financially responsible investment banking firm would find the greatest difficulty in conducting a normal securities business under the Act, and naturally until a number of decisions have been handed down in the courts clarifying and interpreting the various provisions of the Statute, these firms are the ones which are most likely to be the subject of annoying and expensive suits brought by "sharpshooters and shyster lawyers."

I have attached to this written statement detailed suggestions on the various provisions of the Act. In view of the time of this committee which I have already consumed, I will not attempt to read into the records of this committee all of these details which are, however, available if desired.

Then follows a so-called "exhibit A", entitled "Specific Recommendations for Amendment to the Securities Act of 1933."

Senator COUZENS. Mr. Pecora, do you want to read them?

Mr. PECORA. I will not take the time to read them. They will be made available to the committee.

Senator COUZENS. Very well.

Mr. PECORA. Now, Mr. Lord, is there anything that you particularly want to call attention to?

Mr. LORD. No. I tried to cover it briefly.

Mr. PECORA. There are a number of views expressed by Mr. Lord in this prepared statement of his that, if time permitted, I should like to question him about. But perhaps that might be reserved for some future time. However, I do want to call his attention to this statement contained in his prepared statement:

This Nation of ours—the most progressive in the world in the development of industry and commerce—was without doubt materially aided along these lines by the courage, foresight, and vision of its bankers.

Mr. Lord, don't you think that a very substantial responsibility rests at the door of bankers, so-called, for the debacle of 1929 and what has followed since?

Mr. LORD. I think it might be equally divided between the public and the bankers. Mr. Pecora. I do not think that any single class, industry or business or individuals, can be handed that responsibility or that blame. I think we were all at fault, bankers as well as others.

Mr. PECORA. Wasn't the policy of banks and bankers such as to advertise that they would advise their depositors and customers with regard to the making of investments?

Mr. LORD. Yes; I think it was generally so. And some gave good advice and some gave bad advice.

Senator TOWNSEND. And some advice that they thought was good turned out bad, and—

Mr. LORD (interposing). Yes, sir.

Senator TOWNSEND (continuing). And some that they thought was bad might have turned out good?

Mr. LORD. Well, I don't know about that.

Mr. PECORA. At any rate, securities affiliates of banks, organized selling campaigns to sell securities which they issued and underwrote, and which they underwrote under circumstances that charged them with knowledge as a result of reports made to them by their own observers and experts, and that put a very full responsibility upon them. For instance, in the case of Peruvian bonds, issued by J. & W. Seligman & Co. and the National City Co., evidence of that was presented to this committee last February, as you will recall, when 90 million dollars of bonds of the Peruvian Government were sold to the American public by the National City Co. and J. & W. Seligman & Co.

Senator TOWNSEND. Oh, that was indefensible.

Mr. PECORA. As I recall the evidence introduced last February, the National City Co. had been advised by its own experts that it was a bad risk.

Senator TOWNSEND. Well, that was indefensible.

Mr. PECORA. I think that is all, Mr. Lord.

Senator COUZENS. I want to ask Mr. Lord one thing with respect to group banking. It appears that when the Group Co. was organized in Michigan, there was specifically drawn to the attention of the Group Co. that they were not to direct the banks but that the banks would be left to unit direction; is that right?

Mr. LORD. That is my recollection, or at least at the time of the opinion by the attorney general of Michigan, and I don't remember the date of it.

Senator COUZENS. What is the advantage of group banking if they are not to interfere with the direction of the unit banks?

Mr. LORD. Well, I think there are educational advantages that are very considerable. Now, if I should talk about our own situation in the light of subsequent events it might sound to you foolish, and I know there were defects, but there was the advantage of educational work, and we helped in adopting beneficial methods, and there were banks that were more carefully run as members of the group than before. They were run by their own boards, and it was our idea to get that local atmosphere present for the benefit of the local institution.

Senator COUZENS. Of course, the maintenance of a group organization was rather an extensive undertaking, was it not?

Mr. LORD. It was; but I think it would have been worth the expense of operation under normal conditions. In our own situation, as I said in my opening statement, the biggest mistake we made was to have a group at the top of the hill instead of at the bottom of the hill. For instance, Senator, with separate group banking, there is no question in my mind that that whole northwest country has been protected and saved through those groups there. With all the bank failures that took place beginning in 1920 and 1921 in Iowa, Nebraska, the Dakotas, and Montana, even the banks that are a part of those 2 groups up there, or those 3 or 4 groups—I do not believe they could have survived this last.

Senator COUZENS. How was it they survived and you could not survive?

Mr. LORD. I think they have gone through their worst times. In June 1932 was the low point of nearly all time in this country in the value of securities, and certainly Detroit was the low point in this country, when this country was at its low point.

Senator COUZENS. Was it not true, in the case of the Northwest group, that the stockholders and directors got together and rehabilitated the corporation?

Mr. LORD. Not that I know of; although I do not know. I do not know anything about their internal workings. I know the institution and know the men in it. I do not know what they did financially.

Senator COUZENS. As I remember, former Secretary of State Kellogg told me that they had called upon all of their directors and stockholders to put up a lot more money to rehabilitate the group.

Mr. LORD. I do not know the circumstances at all.

Senator COUZENS. How many other groups are there operating besides the Northwest Co.?

Mr. LORD. There is the Marine Midland, which is a group in New York State with a big bank in Buffalo, and the Marine Trust Co. in New York, and a string of banks all through the State. There are smaller groups. There is a group around Seattle. There is a group around Ogden, Utah, and there are other smaller groups. This man Bremer, whose son was just kidnaped, has a small group of banks.

Senator COUZENS. There is some difference between chain banking and group banking, is there not?

Mr. LORD. Yes; I think there is, Senator. As I recall the definition of chain banking, there is the question of a single ownership of an individual, where, perhaps, one bank owns an interest in another bank instead of all centering in one holding company without any bank relationship.

Senator COUZENS. Which do you think the safer practice, chain banking or group banking?

Mr. LORD. I do not like chain banking at all, because I think there is an overlapping. There was quite a chain down in Arkansas, as I remember it, that failed several years ago.

Senator TOWNSEND. There was a chain down in Florida, too.

Mr. LORD. Yes. I will admit that there are weaknesses in group banking. There is no question about it. The only answer in this country to the banking situation is branch banking. It has got to come, because the small community cannot support a unit bank with the safety the community ought to have.

Senator COUZENS. Do you have anything else to say, Mr. Lord?

Mr. LORD. No, sir.

Mr. PECORA. You come very close to favoring the nationalization of banks.

Mr. LORD. I do; under one single system—not State systems but a national system.

Senator TOWNSEND. That is very nearly accomplished, is it not, under the guaranty plan?

Mr. LORD. To a great extent I think it is.

Mr. PECORA. That is all I have.

Senator COUZENS. The committee will adjourn until tomorrow morning at 10 o'clock.

(Thereupon, at 5 p.m., Tuesday, Jan. 23, 1934, the subcommittee adjourned to meet Wednesday, Jan. 24, 1934, at 10 a.m.)

COMMITTEE EXHIBIT No. 114, JANUARY 20, 1934
Congress Corporation, assets purchased from units

Date of Purchase	Unit Purchased from—	Number of Loans & Trust Adv. Purchased	Amount Paid	Number of Corporations of which stock was Purchased	Amount Paid	Number of Corporations of which bonds were Purchased
Dec. 29, 1931	Guardian Bank of Dearborn		\$130,000.00			
Mar. 28, 1932	do		646.79			
July 20, 1932	do	18	5,297.62			
Dec. 29, 1931	Grand Rapids Nat'l Bank	11	92,353.04			
Do	Guardian Bank of Trenton	2	10,110.54			13
Dec. 30, 1931	Union Guardian Trust Co.	221	{/2,940,330.98			
Dec. 29, 1932	do		{2,557,178.21			20
Dec. 31, 1931	Guardian Bank of Grosse Pointe	11	11,572.83			16
Jan. 8, 1932	City Nat'l. Bk. & Tr. Co., Niles	27	80,156.68			30
Do	City Nat'l. Bk. & Tr. Co., Battle Creek	4	102,747.20	3	\$2,294.15	19
Jan. 11, 1932	National Bank of Ionia	23	114,703.37			7
Sept. 17, 1932	F.N.B. Securities, Kalamazoo	2	1,300.00			41
	Total		319,6,046,397.26	3	2,294.15	146

Date of Purchase	Unit Purchased from—	Amount Paid	Number of Parcels Real Estate	Amount Paid	Due Congress Corp., assets not rec'd	Total Amounts Paid
Dec. 29, 1931	Guardian Bank of Dearborn					
Mar. 28, 1932	do					\$135,944.41
July 20, 1932	do					
Dec. 29, 1931	Grand Rapids Nat'l Bank					92,353.04
Do	Guardian Bank of Trenton	\$67,980.36				78,090.90
Dec. 30, 1931	Union Guardian Trust Co.	905,241.48	27	\$816,682.38	\$21,853.35	7,500,000.00
Dec. 29, 1932	do	258,713.60				
Dec. 31, 1931	Guardian Bank of Grosse Pointe	80,155.58	1	7,861.77		99,590.18
Jan. 8, 1932	City Nat'l. Bk. & Tr. Co., Niles	68,334.50				148,491.18
Do	City Nat'l. Bk. & Tr. Co., Battle Creek	93,027.58				198,068.93
Jan. 11, 1932	National Bank of Ionia	33,187.77				147,891.14
Sept. 17, 1932	F.N.B. Securities, Kalamazoo	12,771.50				14,071.50
	Total	1,519,412.37	28	824,544.15	21,853.35	8,414,501.28

¹ Purchased direct by Congress Corporation.

COMMITTEE EXHIBIT No. 91, JANUARY 17, 1934
Certificate of deposit withdrawals (Feb. 1 to 11, inclusive)

Date	Name	Amount
Feb. 1, 1933	Alfred P. Herbert & Alice	\$1,500.00
	Suburban Development Co.	4,000.00
Feb. 2, 1933	John W. Ripper & Maggie	1,000.00
	Clara Adams	1,000.00
	Conductors Protective Assurance Co.	17,000.00
	Theodore W. Dunn & Isabel C.	8,000.00
	Eva M. Jones & James G. Jones	1,400.00
	Posen State Bank	1,000.00
	Murray W. Sales Co. (Directors int.)	25,000.00
Feb. 3, 1933	Ernest Venn	2,000.00
	William H. Venn	3,000.00
Feb. 4, 1933	Capac State Savings Bank	2,500.00
Feb. 6, 1933	General Motors Truck Co.	100,000.00
	Otto S. Goertsen	1,500.00
Feb. 7, 1933	Helen D. Nerreter	1,000.00
	Florence L. Chamberlin	5,660.00
	Postoria State Bank	2,500.00
	Traub Mfg. Co.	35,000.00
Feb. 8, 1933	U.G.T. Co. Tr. for Charles G. Oakman	2,000.00
	John Dettloff & Anna	3,300.00
	+George W. Trenville (Director)	10,000.00
Feb. 9, 1933	Wayne Realty & Investment Co.	1,500.00
	Electromaster, Inc.	1,000.00
	General Motors Truck Corp.	100,000.00
Feb. 10, 1933	Wilcox-Rich Corp.	50,000.00
	Detroit Trust Co. Agent for Trustees of Childrens Fund of Michigan	100,000.00
	Lettie Emerick	1,500
	Truman Newberry	5,400.00
Feb. 11, 1933	U.G.T. Co. Rec't for Grand Trunk Rwy. Terminal & Cold Stor. Co.	60,238.90
	Goldberg, Max F	3,000.00

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